



# भारत का राजपत्र The Gazette of India

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सं० 14]

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No. 14]

NEW DELHI, SATURDAY, APRIL 4, 1987/CHAITRA 14, 1909

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में  
रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as  
a separate compilation

## भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India (other than the  
Ministry of Defence)

विधि और न्याय मंत्रालय  
(विधि कार्य विभाग)

नई दिल्ली, 18 मार्च, 1987

सूचना

का०आ० 899—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में मक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्रीमती के. राधामणि अम्मा एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे एर्नाकुलम जिला में व्यवसाय करने के लिए नोटरी के रूप में नियुक्त किया जाए।

2. उक्त व्यक्ति की नोटरी के रूप में नियुक्ति पर किम भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में भेरे पास भेजा जाए।

[सं. 5(24)/87-न्या.]

आर.एन. पौडार, मक्षम प्राधिकारी

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

New Delhi, the 18th March, 1987

NOTICE

S.O. 899.—Notice is hereby given by the Competent Authority in pursuance of rule 6 of the Notaries Rules, 1956,

that application has been made to the said Authority, under rule 4 of the said Rules, by Mrs. K. Radhamani Amma, Advocate for appointment as a Notary to practise in Ernakulam Dist.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(24)/87-JudL.]

R. N. PODDAR, Competent Authority

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 6 फरवरी, 1987

घायकट

का. आ. 900 — आयकर अधिनियम, 1961 (1961 क. 43) की धारा 2 के खंड (44) के उपखंड (iii) के अनुसरण में, केन्द्रीय सरकार एतद्वारा नीचे स्तंभ 4 में उल्लिखित अधिसूचना(ओं) का अधिलेखन करते हुए, नीचे स्तंभ 3 में उल्लिखित कर बसूली अधिकारियों के स्थान पर स्तंभ 2 में उल्लिखित व्यक्तियों को, जो केन्द्रीय सरकार के

राजपत्रित अधिकारी हैं, उक्त अधिनियम के अंतर्गत कर बसूली अधिकारियों की शक्तियों का प्रयोग करने के लिए प्राधिकृत करती है:—

क्र.सं.	उन व्यक्तियों के नाम जिन्हें कर बसूली अधिकारी (अधिकारियों) के नाम जिनके स्थान की शक्तियों का प्रयोग करने हेतु प्राधिकृत किया जाना है।	उन कर बसूली अधिकारी (अधिकारियों) के नाम जिनके स्थान पर स्लॉब 2 में उल्लिखित व्यक्तियों को प्राधिकृत किया जाना है	उन पुरानी अधि-सूचनाओं की सं. और तारीख जिनका अधिलेखन किया जाना है
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1	2	3	4
1.	श्री एस.के. श्रीवास्तव	श्री आर.एस. गुप्ता	6573 दिनांक 16-1-1986, (फा.सं. 398/28/85-प्रा.क. (ब))

1	2	3	4
2.	श्री राम नरेश	श्री एम.एस. अग्रवाल	6903 दिनांक 10-9-86, फा.सं. 398/20/86-प्रा.क. (ब)

2. यह अधिसूचना तत्काल लागू होगी तथा जहाँ तक स्लॉब 2 में उल्लिखित व्यक्तियों का संबंध है, कर बसूली अधिकारियों के रूप में उनके कार्यभार सम्भालने की तारीख (तारीखों) से लागू होगी।

[सं. 7120/फा.सं. 398/2/87-प्रा.क. (ब)]

बी.ई. अलेक्जेंडर, प्रवर सचिव

## MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 6th February, 1987

S. O. 900.—In pursuance of sub-clause (iii) of clause (44) of Section 2 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby authorises the persons mentioned below in column 2, being the Gazetted Officers of the Central Government, to exercise the powers of Tax Recovery Officer(s) under the said Act in place of the Tax Recovery Officers mentioned below in column 3 in supersession of the Notification(s) mentioned below in column 4 :—

Sl. No.	Name of the persons to be authorised to exercise powers of Tax Recovery Officer(s)	Name of Tax Recovery Officer(s) in place of whom the persons mentioned in column 2 to be authorised	Old Notification No. and date to be superseded
1	2	3	4
1.	S/Shri S.K. Srivastava	S/Shri R.S. Gupta	6573 dated 16-1-1986, F. No. 398/28/85-IT (B).
2.	„ Ram Naresh	„ M.L. Agarwal	6903 dated 10-9-1986, F. No. 398/20/86-IT (B).

2. This Notification shall come into force with immediate effect and in so far as persons mentioned in column 2 from the date(s) they take over charge(s) as Tax Recovery Officers.

[No. 7120/F. No. 398/2/87-IT(B)]

B.E. ALEXANDER, Under Secy.

नई दिल्ली, 18 मार्च, 1987

आदेश

स्टाम्प

फा.प्रा. 901:—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा टाटा रोबिन्स फ्रेजर लि., जमशेदपुर को मात्र एक लाख बहत्तर हजार पाँच सौ रुपये के उस सदेकित स्टाम्प शुल्क की श्रावणी करने की अनुमति देती है जो उक्त कम्पनी द्वारा जारी किए जाने वाले दो सौ निम्नान्वे लाख रुपये के अंकिन मूल्य के ऋणपत्रों के रूप में प्रत्येक 100 रु. के असम्पत्तिवर्तनीय ऋणपत्रों पर स्टाम्प शुल्क के कारण प्रभाव है।

[सं. 13/87-स्टाम्प/फा.सं. 33/29/86-बि.क.]

बी.आर. मेहमी, प्रवर सचिव

New Delhi, the 18th March, 1987

ORDER

STAMPS

S.O. 901.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits the Tata Robins Fraser, Limited, Jamshedpur to pay

consolidated stamp duty of rupees One lakh, seventy two thousand and five hundred only, chargeable on account of the stamp duty on Non-convertible Bonds of Rs. 100 each in the form of debentures of the face value of two hundred and ninety nine lakhs of rupees to be issued by the said Company.

[No. 13/87-Stamp-F. No. 33/29/86-ST]

B. R. MEHMI, Under Secy.

केन्द्रीय उत्पादन शुल्क समाहर्तार

गुडूर, 31 विसम्बर, 1986

अधिसूचना सं. 5/86

फा. प्रा. 902:—केन्द्रीय उत्पादन शुल्क नियमावली, 1944 के नियम 5 के अधीन मुझे प्रवृत्त शक्तियों का प्रयोग करते हुए तथा इस कार्यालय की दिनांक 21-4-86 की अधिसूचना संख्या 3/86 के आंशिक परिमार्जन में, जहाँ तक नियम 57-एफ (1) (ii) का संबंध है, मेरे द्वारा, केन्द्रीय उत्पादन शुल्क के सहायक सम.हर्ता को प्रत्य.योजित शक्तियाँ रेंज अधीक्षकों को, उनके अपने-अपने अधिकार क्षेत्र में प्रयोग करने के लिए प्रत्यायोजित की जाती हैं।

[फाइल संख्या सी-4/16/21/86-एम.पी.-2]

ए.सी. मागपाल, समाहर्ता

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE  
Guntur, the 31st December, 1986  
NOTIFICATION NO. 5/86

attained the age of superannuation retired from Govt. service on 28-2-87 in the afternoon.

[No. C. II(3) 9-Con/87]

S. V. RAMAKRISHNAN, Collector

S.O. 902.—In exercise of the powers conferred on me under Rule 5 of the Central Excise Rules, 1944 and in partial modification of this office Notification No. 3/86 dated 21-4-1986, the powers delegated by me to the Asstt. Collector of Central Excise, as far as Rule 57-F(1)(ii) is concerned, are delegated to the Range Superintendents to be exercised within their respective jurisdiction.

[File No. C-IV/16/21/86-M.P. 2]

A. D. NAGPAUL, Collector

समाहृतलय केन्द्रीय उत्पाद शुल्क

इन्दौर, 19 मार्च, 1987

अधिसूचना संख्या 5/87

का. भा. 903 —समाहृतलय केन्द्रीय उत्पाद शुल्क, इन्दौर के श्री डी.जी. सोनी, प्रशासनिक अधिकारी समूह "ब" नियुक्ति की प्राप्ति करने पर दिनांक 28-2-87 के अपरान्ह में शासकीय सेवा से निवृत्त हो गए।

[सं. सी. II (3) 9-गोप/87]

एस. व्ही. रामाकृष्णन, समाहृत

CENTRAL EXCISE COLLECTORATE

Indore, the 19th March, 1987

NOTIFICATION NO. 5/87

S.O. 903.—Shri D. G. Soni, Administrative Officer, Central Excise Group 'B' of Indore Collectorate having

[सं. टी. 4330/1/86]  
के. नागराजन, अवर सचिव (कौंसुली)

MINISTRY OF EXTERNAL AFFAIRS.

New Delhi, the 19th March. 1987

S.O. 904.—In pursuance of clause (a) of Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorise Shri S. Dutta, Assistant in the Consulate General of India, Jeddah to perform the duties of Consular Agent with effect from 27-1-87.

[No. T. 4330/1/86]

K. NAGARAJAN, Under Secy. (Consular)

ऊर्जा मंत्रालय

(कोयला विभाग)

नई दिल्ली, 20 मार्च, 1987

का. भा. 905 —केन्द्रीय सरकार, कोयला धारक क्षेत्र (भर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इससे उपाखंड अनुसूची के स्तम्भ 4 में विनिर्दिष्ट प्रत्येक व्यक्ति को, उक्त अधिनियम की उस धारा के प्रयोजन के लिए, जो कि अनुसूची के स्तम्भ 2 की तत्स्थानी प्रविष्टि में उसके नाम के सामने विनिर्दिष्ट है, साउथ ईस्टर्न कोलफील्ड्स लि. विलासपुर, मध्य प्रदेश की अधिकारिता के भीतर आने वाले क्षेत्र की बाबत, सक्षम प्राधिकारी के रूप में नियुक्त करती है।

अनुसूची

क्र. सं.	अधिनियम की धारा	क्षेत्र में समनुदेशन की प्रकृति	सक्षम प्राधिकारी के रूप में नियुक्त व्यक्ति का पदनाम और कार्यालय का पता
1	2	3	4
1. 4(3)	पूर्वक्षण, सर्वक्षण, खुदाई, वेधन आदि	प्रबन्ध निदेशक नियेशक मुख्य महाप्रबंधक अधीक्षण का भूविज्ञानी ज्येष्ठ भूविज्ञानी भूविज्ञानी उप ड्रिलिंग अधीक्षक ज्येष्ठ सर्वक्षण अधिकारी सर्वक्षण अधिकारी	साउथ ईस्टर्न कोलफील्ड्स लिमिटेड विलासपुर —यथोक्त— —यथोक्त— —यथोक्त— —यथोक्त— —यथोक्त— —यथोक्त— —यथोक्त— —यथोक्त—
1. 4(3)	पूर्वक्षण, सर्वक्षण, खुदाई वेधन आदि	प्रबन्ध निदेशक अध्यक्ष भूविज्ञान और ड्रिलिंग अपर अध्यक्ष भूविज्ञान और ड्रिलिंग प्रादेशिक निदेशक	सेन्ट्रल माइन प्लानिंग एण्ड डिजाइन इंस्टीट्यूट लिमिटेड, रांची —यथोक्त— सेन्ट्रल माइन प्लानिंग एण्ड डिजाइन इंस्टीट्यूट लिमिटेड —यथोक्त—

1	2	3	4	5
			उप अध्यक्ष भूविज्ञान	सेन्ट्रल भाईन प्लानिंग एण्ड डिजाइन इंस्टीट्यूट लि०
			अधीक्षण भूविज्ञानी	-यथोक्त-
			उप अधीक्षण भूविज्ञानी	-यथोक्त-
			ज्येष्ठ भूविज्ञानी	-यथोक्त-
			भूविज्ञानी	-यथोक्त-
			अधीक्षक ड्रिलिंग	-यथोक्त-
			ज्येष्ठ उप अधीक्षक ड्रिलिंग	-यथोक्त-
			उप अधीक्षक ड्रिलिंग	-यथोक्त-
			सर्वेक्षण अधिकारी	-यथोक्त-
			महानिदेशक	भारतीय भूविज्ञान सर्वेक्षण कलकत्ता
			उप महानिदेशक	-यथोक्त-
			निदेशक	-यथोक्त-
			प्रबन्ध निवेशक	भिनरल एक्सप्लोरेशन कारपोरेशन
			निवेशक	लि., नागपुर
			मुख्य भूविज्ञानी	-यथोक्त-
			उप मुख्य भूविज्ञानी	-यथोक्त-
2. 6	धारा 4(3) के अधीन किए नुकसान के लिए प्रतिकर		प्रबन्ध निदेशक	साउथ ईस्टर्न कोलफील्डस् लि., बिलासपुर
			निवेशक	-यथोक्त-
			मुख्य महाप्रबंधक	-यथोक्त-
			महाप्रबंधक	-यथोक्त-
			अपर अध्यक्ष भूविज्ञान और ड्रिलिंग	-यथोक्त-
2. 6	धारा 4(3) के अधीन किए गए नुकसान के लिए प्रतिकर		अध्यक्ष राजस्व/एस्टेट प्रबंधक	साउथ ईस्टर्न कोलफील्डस् लिमिटेड, बिलासपुर
			उप अध्यक्ष (राजस्व)	-यथोक्त-
			उप एस्टेट प्रबंधक	-यथोक्त-
			सहायक एस्टेट (राजस्व)	साउथ ईस्टर्न कोलफील्डस् लि., बिलासपुर
			सहायक एस्टेट प्रबंधक	-यथोक्त-
3. 8(2)	आक्षेप की सुनवाई		कोयला नियंत्रक	कोयला नियंत्रक, 1, काउन्सिल हाउस स्ट्रीट, कलकत्ता
4. 12	भूमि का कब्जा लेने की शक्ति		प्रबन्ध निदेशक	साउथ ईस्टर्न कोलफील्डस् लि., बिलासपुर
			निवेशक	"
			महाप्रबंधकों का अध्यक्ष	"
			महाप्रबंधक	"
			अध्यक्ष, राजस्व/एस्टेट	"
			प्रबंधक	"
			उपअध्यक्ष (राजस्व)/	"
			उप स्टेट प्रबंधक	"
			सहायक अध्यक्ष (राजस्व)	"
			सहायक एस्टेट प्रबंधक	"
			ज्येष्ठ राजस्व अधिकारी/	"
			ज्येष्ठ एस्टेट अधिकारी	"
			राजस्व अधिकारी/	"
			एस्टेट अधिकारी	"
			सहायक राजस्व अधिकारी/	"
			सहायक एस्टेट अधिकारी	"
5. 13(6)	उस नुकसान के लिए प्रतिकर जिसके लिए अधिनियम में उपबंध नहीं किया गया है।		प्रबन्ध निदेशक	-यथोक्त-
			निवेशक	-यथोक्त-
			मुख्य महाप्रबंधक	-यथोक्त-
			महाप्रबंधक	-यथोक्त-
			मुख्य राजस्व/एस्टेट प्रबंधक	-यथोक्त-
			उप अध्यक्ष (राजस्व)/	-यथोक्त-
			उप एस्टेट प्रबंधक	-यथोक्त-
			सहायक अध्यक्ष (राजस्व)/	-यथोक्त-
			सहायक एस्टेट प्रबंधक	-यथोक्त-
			ज्येष्ठ राजस्व अधिकारी/	-यथोक्त-
			ज्येष्ठ एस्टेट अधिकारी	-यथोक्त-

1	2	3	4	5
6. 22	किसी संपत्ति पर प्रवेश करने और उसका निरीक्षण करने की शक्ति	प्रबंध निदेशक निदेशक मुख्य महाप्रबंधक महाप्रबंधक अध्यक्ष (राजस्व)/ उप एस्टेट प्रबंधक उप अध्यक्ष (राजस्व)/ उप एस्टेट प्रबंधक सहायक अध्यक्ष (राजस्व)/ सहायक एस्टेट प्रबंधक		-यथोक्त - -यथोक्त- -यथोक्त- -यथोक्त- -यथोक्त- -यथोक्त- -यथोक्त- -यथोक्त-

[सं. 43022/1/87-सी. ए.]

समय सिंह, अवर सचिव

## MINISTRY OF ENERGY

(Department of Coal)

New Delhi, the 20th March, 1987

S.O. 905.—In exercise of the powers conferred by section 3 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby appoints each of the persons specified in column 4 of the Schedule hereto annexed to be the competent authority for the purpose of such of the section of the said Act as is specified against his name in the corresponding entry in column 2 thereof in respect of the areas falling within the jurisdiction of the South Eastern Coalfields limited, Bilaspur, Madhya Pradesh.

## SCHEDULE

Sl. No.	Section of the Act	Nature of assignment in brief	Designation & official address of the person appointed as competent authority
1	2	3	4
1. 4(3)	Prospecting, survey, dig, bore, etc.	Managing Director Directors Chief General Managers General Managers Superintending Geologist Senior Geologist Geologist Deputy Drilling Superintendent Senior Survey Officer Survey Officer	South Eastern Coalfields Limited, Bilaspur. -do- -do- -do- -do- -do- -do- -do- -do- -do-
1. 4(3)	Prospecting, survey, dig, bore, etc.	Managing Director Chief of Geology and Drilling Additional Chief of Geology and Drilling. Regional Directors Deputy Chief of Geology. Superintending Geologists Deputy Superintending Geologists. Senior Geologists. Geologists. Drilling Superintendents. Senior Deputy Drilling Superintendents. Deputy Drilling Superintendents. Survey Officers. Director General Deputy Director General Directors Managing Director Director Chief Geologist Deputy Chief Geologists	Central Mine Planning and Design Institute Limited, Ranchi. -do- -do- -do- -do- -do- -do- -do- -do- -do- -do- -do- -do- -do- Geological Survey of India, Calcutta. -do- -do- Mineral Exploration Corporation Nagpur. -do- -do- -do-

1	2	3	4	5
2. 6	Compensation for damage done under section 4(3).	Managing Director Directors Chief General Managers General Managers  Additional Chief of Geology and Drilling.  Chief of Revenue/Estate Manager.  Deputy Chief (Revenue)/Deputy Estate Manager. Assistant Chief (Revenue)/ Assistant Estate Manager.	South Eastern Coalfields Limited, Bilaspur  	

## पेट्रोलियम और प्राकृतिक गैस संश्लेष

नई दिल्ली, 19 मार्च, 1987

## गुद्दि पत्र

का.प्रा. 906--भारत सरकार के राजपत्र, भाग II खण्ड 3, उपखण्ड (ii) दिनांक 8-9-84 पृष्ठ क्रमांक 2678 और 2679 का.प्रा. संख्या 0-12016/108/83-प्रोड. के अन्तर्गत भारत सरकार, ऊर्जा मंत्रालय (पेट्रोलियम विभाग) की अधिसूचना संख्या 2888 दिनांक 8-9-84 के अन्तर्गत पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 की धारा 6 उपधारा (1) के अधीन वर्णित गांव मोशी तहसील हवेली जिला पुणे महाराष्ट्र के अन्तर्गत अधिसूचना में वर्णित भूमि में खसरा नम्बर, हिस्सा नम्बर, क्षेत्रफल कालम 1 के बबले अनुसूची में खसरा नम्बर, हिस्सा नम्बर, क्षेत्रफल कालम 2 में दी गई अनुसूची को पढ़ें।

निम्नलिखित अनुसूची के भाग 2 में वर्णित भूमि में पाईप लाइन बिछाने का प्रयोजन भलाईमेंट बचाने से भय न रहा है, अब अतः निम्नलिखित अनुसूची के भाग 2 में वर्णित भूमि, धारा 6 की उपधारा (i) के अधिसूचना को अनुसूची से कम कर दी गई है।

## अनुसूची

कालम 2 पढ़ें

कालम 1 के लिये

## भाग 1

गांव	खसरा नम्बर	हिस्सा नम्बर	क्षेत्रफल	गांव	खसरा नम्बर	हिस्सा नम्बर	क्षेत्रफल
मोशी	450	1-1	00-31-04	मोशी	450	का भाग	00-35-00
	861	का भाग	00-35-10		851	"	00-24-00
	869	"	00-35-10		869	"	00-56-00
	876	"	00-35-10		876	"	00-12-00
	880	"	00-23-40		880	"	00-32-00
	881	"	00-40-32		881	"	00-07-00
	903	"	00-14-22		903	"	00-26-00
	905	"	00-02-70		905	"	00-05-00
	1062	2	00-18-72		1062	"	00-08-00
	1063	का भाग	00-27-00		1063	"	00-22-00
	1163	"	00-03-06		1163	"	00-01-20
	1164	"	00-03-06		1164	"	00-04-00
	1165	"	00-02-80		1165	"	00-04-00
	1166	"	00-19-80		1166	"	00-25-00
	1167	"	00-24-30		1167	"	00-24-00
	1178	"	00-01-00		1178	"	00-03-00
	1179	"	00-01-00		1179	"	00-02-00
	1180	"	00-01-00		1180	"	00-02-00
	1181	"	00-05-40		1181	"	00-09-00
	1182	"	00-02-06		1182	"	00-04-00
	1192	"	00-07-38		1192	"	00-11-00
	1195	"	00-36-00		1195	"	00-18-00
	1199	"	00-71-64		1199	"	00-56-00
	1200	"	00-09-36		1200	"	00-01-00
	1201	"	00-01-08		1201	"	00-11-00
	904	"	00-39-35		904	"	00-28-00

गांव	खसरा नम्बर	हिस्सा नम्बर	क्षेत्रफल
मोशी	447	"	00-27-00
	448	"	00-33-00
	879	"	00-02-00
	899	"	00-14-00
	1177	"	00-05-00
	1191	"	00-14-00

## MINISTRY OF PETROLEUM &amp; NATURAL GAS

New Delhi, the 19th March, 1987

## CORRIGENDUM

S.O. 906.—In the Notification of Government of India, Ministry of Energy (Department of Petroleum) No. O-12016/108-83-Prod dated 8-9-84 published under S. O. No. 2888 in the Gazette of India, Part II, Section 3, Sub-Section (ii) at Pages 2678 & 2679 issued under section 6 sub-

Section (i) of the Petroleum & Minerals Pipe Lines (Acquisition of Right of User in Land) Act, 1962 in respect of villages-Moshi for S.O. Nos. and areas shown in the column No. 1 of the schedule appended to this corrigendum, read and S. No. and areas as shown in column No. 2 of this said schedule. Lands mentioned in the Part II of the appended schedule however do not come under the Pipe Line Project due to change in the alignment and therefore, they are deleted from the schedule appended to the Notification under section 6 Sub-Section (i) referred to above.

## SCHEDULE

Read (Col.-II)

For (Col-I)

Village	S. No. G. No.	H. No.	Area	Village	S. No. G. No.	H. No.	Area
1	2	3	4	5	6	7	8
Moshi	450	1-1	00-31-04	Moshi	450	(pt)	00-35-00
	851	(pt)	00-35-10		851	"	00-24-00
	869	"	00-35-10		869	"	00-56-00
	876	"	00-35-10		876	"	00-12-00
	880	"	00-23-40		880	"	00-32-00
	881	"	00-40-32		881	"	00-07-00
	903	"	00-14-22		903	"	00-26-00
	905	"	00-02-70		905	"	00-05-00
	1062	2	00-18-72		1062	"	00-08-00
	1063	(pt)	00-27-00		1063	"	00-22-00
	1163	"	00-03-06		1163	"	00-01-00
	1164	"	00-03-06		1164	"	00-04-00
	1165	"	00-02-80		1165	"	00-04-00
	1166	"	00-19-80		1166	"	00-25-00
	1167	"	00-24-30		1167	"	00-24-00
	1178	"	00-01-00		1178	"	00-03-00
	1179	"	00-01-00		1179	"	00-02-00
	1180	"	00-01-00		1180	"	00-02-00
	1181	"	00-05-40		1181	"	00-09-00
	1182	"	00-02-06		1182	"	00-04-00
	1192	"	00-07-38		1192	"	00-11-00
	1195	"	00-36-00		1195	"	00-18-00
	1199	"	00-71-64		1199	"	00-56-00
	1200	"	00-09-36		1200	"	00-01-00
	1201	"	00-01-08		1201	"	00-11-00
	904	"	00-39-35		904	"	00-28-00

## PART-II

Village	S. No. G. No.	H. No.	Area
1	2	3	4
Moshi	447	(pt)	00-27-00
	448	"	00-33-00
	879	"	00-02-00
	899	"	00-14-00
	1177	"	00-05-00
	1191	"	00-14-00



## गुंछ पत्र

का. प्रा. 907.—भारत सरकार के राजपत्र भाग ख, खण्ड 3, उपखण्ड (ii) दिनांक 24-9-83 पृष्ठ क्रमांक 2708 और 2709 का. प्रा. संख्या O/12016/108/83-प्रोड. के अन्तर्गत भारत सरकार, ऊर्जा मंत्रालय (पेट्रोलियम विभाग) की अधिसूचना संख्या 3622 दिनांक 24-9-83 के अन्तर्गत पेट्रोलियम और खनिज पार्श्व लाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 की धारा 3 उपधारा (i) के अधीन वर्णित गांव मोक्षी तहसील हवेली जिला पुणे महाराष्ट्र के अन्तर्गत अधिसूचना में वर्णित भूमि में खसरा नम्बर, हिस्सा नम्बर, क्षेत्रफल कांलम 1 के बदले में खसरा नम्बर, हिस्सा नम्बर, क्षेत्रफल कांलम 2 में दी गई अनुसूची को पढ़े।

निम्नलिखित अनुसूची के भाग 2 में वर्णित भूमि में पार्श्व लाइन विछाने का प्रयोजन थलार्डमेंट बदलने से अब न रहा है, अब अतः निम्नलिखित अनुसूची के भाग 2 में वर्णित भूमि, धारा 3 के उपधारा (i) के अधिसूचना की अनुसूची में कम कर ली गई है।

## अनुसूची

कालम 2 पढ़े

भाग 1

कालम 1 के लिये

गांव	खसरा नम्बर	हिस्सा नम्बर	क्षेत्रफल	गांव	खसरा नम्बर	हिस्सा नम्बर	क्षेत्रफल
मोक्षी	450	1-1	00-31-04	मोक्षी	450	का भाग	00-35-00
	851	का भाग	00-35-00		851	"	00-24-00
	869	"	00-35-10		869	"	00-56-00
	876	"	00-35-10		876	"	00-12-00
	880	"	00-23-40		880	"	00-32-00
	881	"	00-40-32		881	"	00-07-00
	903	"	00-14-22		903	"	00-26-00
	905	"	00-02-70		905	"	00-05-00
	1062	"	00-18-72		1062	"	00-08-00
	1063	"	00-27-00		1063	"	00-22-00
	1163	"	00-03-06		1163	"	00-01-00
	1164	"	00-03-06		1161	"	00-04-00
	1165	"	00-02-80		1165	"	00-04-00
	1166	"	00-19-80		1166	"	00-25-00
	1167	"	00-24-30		1167	"	00-24-00
	1178	"	00-01-00		1178	"	00-03-00
	1179	"	00-01-00		1179	"	00-02-00
	1180	"	00-01-00		1180	"	00-02-00
	1181	"	00-05-40		1181	"	00-09-00
	1182	"	00-02-06		1182	"	00-04-00
	1192	"	00-07-38		1192	"	00-11-00
	1195	"	00-36-00		1195	"	00-18-00
	1199	"	00-72-64		1199	"	00-56-00
	1200	"	00-09-36		1200	"	00-01-00
	1201	"	00-01-08		1201	"	00-11-00
	904	"	00-39-35		904	"	00-28-00

## भाग 2

गांव	खसरा नम्बर	हिस्सा नम्बर	क्षेत्रफल
मोक्षी		का भाग	
	447	"	00-27-00
	448	"	00-33-00
	879	"	00-02-00
	899	"	00-14-00
	1177	"	00-05-00
	1191	"	00-14-00

[म. आ. 12016/108/83-प्रोड.]

जी.के. राजगोपालन, डैस्क अधिकारी

## CORRIGENDUM

S.O. 907.—In the Notification of Government of India Ministry of Energy (Department of Petroleum) No. O-12016/108/83-Prod dated 24-9-1983 published under S.O. No. 3622 in the Gazette of India, Part II, Section 3, Sub-Section (ii) at Pages 2708 & 2709 issued under section 3 Sub-Section (i), of the Petroleum & Minerals Pipe Lines (Acquisition of Right of User in Land) Act, 1962 in respect of village-Moshi for S. Nos. and areas shown in the Column No. 1 of

the Schedule appended to this corrigendum, read and S. Nos. and areas as shown in column No. 2 of the said schedule.

Lands mentioned in the Part II of the appended schedule, however do not come under the Pipe Line Project due to change in the alignment and therefore they are deleted from the schedule appended to the Notification under section 3 Sub-Section (i) referred to above.

## SCHEDULE

Read (Col-II)				PART-I				For (Col-I)
Village	S. No.	H. No.	Area	Village	S. No.	H. No.	Area	
	G. No.				G. No.			
1	2	3	4	5	6	7	8	
Moshi	450	1- 1	00—31—40	Moshi	450	(pt)	00—35—00	
	851	(pt)	00—35—10		851	"	00—24—00	
	869	"	00—35—10		869	"	00—56—00	
	876	"	00—35—10		876	"	00—12—00	
	880	"	00—23—40		880	"	00—32—00	
	881	"	00—40—32		881	"	00—07—00	
	903	"	00—14—22		903	"	00—26—00	
	905	"	00—02—70		905	"	00—05—00	
	1062	2	00—18—72		1062	"	00—08—00	
	1063	(pt)	00—27—00		1063	"	00—22—00	
	1163	"	00—03—06		1163	"	00—01—00	
	1164	"	00—03—06		1164	"	00—04—00	
	1165	"	00—02—80		1165	"	00—04—00	
	1166	"	00—19—80		1166	"	00—25—00	
	1167	"	00—24—30		1167	"	00—24—00	
	1178	"	00—01—00		1178	"	00—03—00	
	1179	"	00—01—00		1179	"	00—02—00	
	1180	"	00—01—00		1180	"	00—02—00	
	1181	"	00—05—40		1181	"	00—09—00	
	1182	"	00—02—06		1182	"	00—04—00	
	1192	"	00—07—38		1192	"	00—11—00	
	1195	"	00—36—00		1195	"	00—18—00	
	1199	"	00—71—64		1199	"	00—56—00	
	1200	"	00—09—36		1200	"	00—01—00	
	1201	"	00—01—08		1201	"	00—11—00	
	904	"	00—39—35		904	"	00—28—00	

## PART- II

Village	S. No.	H. No.	Area
	G. No.		
1	2	3	4
Moshi	447	(pt.)	00—27—00
	448	"	00—33—00
	879	"	00—02—00
	899	"	00—14—00
	1177	"	00—05—00
	1191	"	00—14—00

## दिल्ली विकास प्राधिकरण

नई दिल्ली, 4 अप्रैल, 1987

## सार्वजनिक सूचना

का. अ. 908.—केंद्रीय सरकार का दिल्ली की मुख्य योजना/जोनल योजना में निम्नलिखित संशोधन करने का प्रस्ताव है, जिसे जनता की सूचना के लिए एन.ए. द्वारा प्रकाशित किया जाता है। प्रस्तावित संशोधन के मामले में यदि किसी व्यक्ति को कोई आपत्ति हो या सुझाव देना हो तो वह आपत्ति या सुझाव लिखित रूप में इस सूचना के जारी होने की तिथि से तीसरे दिन की अवधि के अन्दर सचिव, दिल्ली विकास प्राधिकरण, विकास सदन, "बी" ब्लॉक, आई. एन. ए., नई दिल्ली का भेज दें। आपत्ति करने या सुझाव देने वाले व्यक्ति का अपना नाम और पता भी देना चाहिए।

संशोधन:—“जोन एफ.-4 (कुतुब रोड दक्षिणी दिल्ली के पश्चिम क्षेत्र की यूसुफ सराय हेतु विकास योजना) में लगभग 3043 वर्ग मी. (3645 वर्ग गज) क्षेत्रफल जिसे प्लॉट सं. 1 (पुराना प्लॉट सं. 3) फ्रीस्टरी रोड के नाम से जाना जाता है और जो उत्तर, दक्षिण और पश्चिम की ओर सरकारी उपयोग (कार्यालय) के लिए निर्धारित क्षेत्र और पूर्व में पहुँच मार्ग (सफ़ेदरजंग अस्पताल के साथ लगते हुए) से घिरा है, का भूमि उपयोग “सरकारी उपयोग” (कार्यालयों) से “रिहायशी” उपयोग में बदला जाना प्रस्तावित है।”

2. प्रस्तावित संशोधन का दर्शाने वाला नक्शा निरीक्षण के लिए उपर्युक्त अवधि के अन्दर सभी कार्य-दिवसों को उप निदेशक, मुख्य योजना, विकास मीनार छठी मंजिल, इन्द्रप्रस्थ एस्टेट, नई दिल्ली के पास उपलब्ध रहेगा।

[सं. एफ. 3(54)/84—एम. पी.]

ह.०/सचिव

दिल्ली विकास प्राधिकरण

सी. पी. रस्तोगी, उप निदेशक (एम. पी.)

DELHI DEVELOPMENT AUTHORITY

New Delhi, the 4th April, 1987

## PUBLIC NOTICE

S.O. 908.—The following modification which the Central Government proposed to make to the Master Plan/Zonal Plan for Delhi, is hereby published for public information. Any person having any objection or suggestion with respect to the proposed modification may send the objection or suggestion in writing to the Secretary, Delhi Development Authority, Vikas Sadan, 'B' Block, I.N.A., New Delhi within a period of thirty days from the date of issue of this notice. The person making the objection or suggestion should also give his name and address.

## Modification:—

“The land use of an area, measuring about 3043 sq. mts. (3645 sq. yds.) known as plot No. 1 (old plot No. 3), Factory Road, falling in Zone F-4 (Development plan for Yusuf-sarai area west of Qutab Road South Delhi) bounded by areas earmarked for Governmental use (Offices) towards north, south west and an approach road (existing adjoining Safdarjang Hospital) in the east is proposed to be changed from “Governmental use” to “Residential use”.

2. The plan indicating the proposed modification will be available for inspection at the office of the Dy. Director (MP), Vikas Minar, 6th floor, I.P. Estate, New Delhi on all working days within the period referred to above.

[No. F. 3(54)/84-MPI]

Sd/- Secretary,

Delhi Development Authority

C. P. RASTOGI, Dy. Director (M.P.)

## संचार मंत्रालय

(दूरसंचार विभाग)

नई दिल्ली, 20 मार्च, 1987

का. अ. 909.—स्थायी आदेश संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किए गए भारतीय तार नियम 1951 के नियम 434 के खंड iii के पैरा (क) के अनुसार महानिदेशक, दूरसंचार विभाग ने कटीबलम बन्द नल्लूर टेलीफोन केन्द्र, तमिलनाडु सकल, में दिनांक 31-3-1987 से प्रमाणित वर प्रणाली लागू करने का निश्चय किया है।

[संख्या 5-3/87-पी एच बी]

## MINISTRY OF COMMUNICATIONS

(Department of Telecommunications)

New Delhi, the 20th March, 1987

S.O. 909.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General, Department of Telecommunications, hereby specifies 31-3-1987 as the date on which the Measured Rate System will be introduced in Karivalanavandanallur Telephone Exchange, Madurai Telecom. Region, Tamil Nadu.

[No. 5-3/87-PHB]

का. अ. 910.—स्थायी आदेश संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किए गए भारतीय तार नियम 1951 के नियम 434 के खंड iii के पैरा (क) के अनुसार महानिदेशक, दूरसंचार विभाग ने धार टेलीफोन केन्द्र, मध्यप्रदेश सकल, में दिनांक 30-3-1987 से प्रमाणित वर प्रणाली लागू करने का निश्चय किया है।

[संख्या 5-5/87-पी एच बी]

पी० आर० काररा, सहायक महानिदेशक (पी एच बी)

S.O. 910.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General, Department of Telecommunications, hereby specifies 30-3-1987 as the date on which the Measured Rate System will be introduced in Dhar Telephone Exchange, M. P. Telecom. Circle.

[No. 5-5/87-PHB]

P. R. KARRA, Assistant Director General (PHB)

**श्रम मंत्रालय**

नई दिल्ली, 23 मार्च, 1987

का.आ. 911—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 33ग के उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत सरकार के श्रम मंत्रालय के अधिसूचना संख्याओं का प्रा. 4650, तारीख 30 दिसम्बर, 1967, का.प्रा. 1175, तारीख 30 मार्च, 1968, का.प्रा. 668, तारीख 22 फरवरी, 1969, का.प्रा. 1894, तारीख 17 मई, 1969, का.प्रा. 1768, तारीख 10 मई, 1969, का.प्रा. 2796, तारीख 24 जुलाई, 1971, का.प्रा. 3810 तारीख 4 नवम्बर, 1972 का.प्रा. 4521, तारीख 18 अक्टूबर, 1975, का.प्रा. 45, तारीख 19 दिसम्बर, 1981 का.प्रा. 1633, तारीख 16 अप्रैल, 1982 और का.प्रा. 4014, तारीख 4 दिसम्बर, 1982 का अधिष्ठापन करते हुए, लेकिन ऐसे अधिष्ठापन से पहले किए गए या छोड़े गए कार्यों के सिवाय, केन्द्रीय सरकार एतद् द्वारा आंध्र प्रदेश, असम, गुजरात, कर्नाटक, केरल, मध्य प्रदेश, महाराष्ट्र, उड़ीसा, तमिलनाडु और पश्चिम बंगाल राज्यों और दिल्ली संघ राज्य क्षेत्र द्वारा स्थापित श्रम न्यायालयों को ऐसे श्रम न्यायालयों के रूप में विनिर्दिष्ट करती है, जो आंध्र प्रदेश, असम, गुजरात, कर्नाटक, केरल, मध्य प्रदेश, महाराष्ट्र, उड़ीसा, तमिलनाडु, और पश्चिम बंगाल राज्यों और दिल्ली संघ राज्य क्षेत्र में स्थित किसी ऐसे उद्योग में, जिसके संबंध में केन्द्रीय सरकार समुचित सरकार है, नियोजित कर्मचारों के संबंध में उस राशि का निर्धारण करेगी जिस पर उक्त धारा में निविष्ट किसी लाभ की धन के रूप में संगणना की जा सकेगी।

[एस. 11025/2/86-सी.एल.टी.(ii)]

**MINISTRY OF LABOUR**

New Delhi, the 23rd March, 1987

S.O. 911.— exercise of the powers conferred by sub-section (2) of section 33C of the Industrial Disputes Act, 1947 (14 of 1947), and in supersession of the Notification Nos. S.O. 4650, dated the 30th December, 1967, S.O. 1175, dated the 30th March, 1968, S.O. 668, dated the 22nd February, 1969, S.O. 1894, dated the 17th May, 1969, S.O. 1768, dated the 10th May, 1969, S.O. 2796, dated the 24th July, 1971, S.O. 3810, dated the 4th November, 1972, S.O. 4521, dated the 18th October, 1975, S.O. 45, dated the 19th December, 1981, S.O. 1633, dated the 16th April, 1982 and S.O. 4014, dated the 4th December, 1982 of the Government of India in the Ministry of Labour, except as respects things done or omitted to have done before such supersession, the Central Government hereby specifies the Labour Courts set up by the Governments of Andhra Pradesh, Assam, Gujarat, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Tamil Nadu and West Bengal and the Union territory of Delhi as the Labour Courts which shall determine the amount at which any benefit referred to in that sub-section would be computed in terms of money in relation to workman employed in any industry in the States of Andhra Pradesh, Assam, Gujarat, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Tamil Nadu and West Bengal, and Union Territory of Delhi in respect of which the Central Government is the appropriate Government.

[F. No. S-11025/2/86-CLT(ii)]

का.आ. 912.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 33ग की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद् द्वारा बिहार, मणिपुर, मेघालय, नागालैंड, सिक्किम, त्रिपुरा, अरुणाचल प्रदेश, और मिजोरम राज्यों और अंडमान और निकोबार द्वीप समूह, दादरा और नागर हवेली, गोवा, दमण और दीव, लक्षद्वीप और पांडिचेरी संघ राज्य क्षेत्रों द्वारा स्थापित, श्रम न्यायालयों को ऐसे श्रम न्यायालयों के रूप में विनिर्दिष्ट करती है, जो बिहार, मणिपुर, मेघालय, नागालैंड, सिक्किम, त्रिपुरा, अरुणाचल प्रदेश और मिजोरम राज्यों और अंडमान और निकोबार द्वीप समूह, दादरा

और नागर हवेली, गोवा, दमण और दीव, लक्षद्वीप और पांडिचेरी संघ राज्य क्षेत्रों में स्थित किसी ऐसे उद्योग में, जिसके संबंध में केन्द्रीय सरकार समुचित सरकार है, नियोजित कर्मचारों के संबंध में उस राशि का निर्धारण करेगी जिस पर उक्त उपधारा में निविष्ट किसी लाभ की धन के रूप में संगणना की जा सकेगी।

[एस-11025/2/86-सी. एल. टी.]

राम कनूगा, अवसर सचिव

S.O. 912.—In exercise of the powers conferred by sub-section (2) of section 33C of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby specifies the Labour Courts set up by the Governments of Bihar, Manipur, Meghalaya, Nagaland, Sikkim, Tripura, Arunachal Pradesh and Mizoram and the Union Territories of Andaman & Nicobar Islands, Dadra and Nagar Haveli, Goa, Daman and Diu, Lakshadweep and Pondicherry, as the Labour Courts which shall determine the amount at which any benefit referred to in that sub-section would be computed in terms of money in relation to workman employed in any industry in the States of Bihar, Manipur, Meghalaya, Nagaland, Sikkim, Tripura, Arunachal Pradesh and Mizoram and the Union territories of Andaman and Nicobar Islands, Dadra and Nagar Haveli, Goa, Daman and Diu, Lakshadweep and Pondicherry, in respect of which the Central Government is the appropriate Government.

[F. No. S-11025/2/86-CLT]

RAM KANUGA, Under Secy.

नई दिल्ली, 23 मार्च 1987

का. आ. 913.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, बनारस स्टेट बैंक लिमिटेड के प्रबंधनत्व से संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9 मार्च, 1987 को प्राप्त हुआ था।

New Delhi, 23rd March, 1987

S.O. 913.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published in the award of the Central Government Industrial Tribunal, Kanpur, as shown in the Annexure in the industrial dispute between the employers in relation to the Benares State Bank Limited, Varanasi and their workmen, which was received by the Central Government on the 9th March, 1987.

BEFORE SHRI R. B. SRIVASTAVA PRESIDING OFFICER CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM LABOUR COURT, KANPUR

Industrial Dispute No. 249/85

In the matter of dispute between :

Shri Ram Kumar Sharma S/o Shri R. C. Sharma, C/o Shri Girish Chandra Bharti, 810, Shahbad, Bareilly.

AND

The Dy. General Manager (Personnel), The Benaras State Bank Ltd., L-52/1, Luxa Road, Varanasi.

**AWARD**

The Central Government Ministry of Labour vide its notification No. L-12012/4191-D.IV(A) dated 14-6-85 has referred the following dispute for adjudication on this tribunal :

"Whether the management of Benaras State Bank Ltd. in terminating the service of Shri Ram Kumar Sharma, Accountant at Aligarh Branch with effect from 2-11-82 is justified? If not, to what relief is the workman concerned entitled?"

2. Workman submitted his statement of claim and the management filed written statement thereon.

3. At latter stage Shri V. N. Sekhri representative of the workman states that since he workman retired on 9-11-82 the case has become infectious.

## ORDER

The case is decided as not pressed and award given accordingly. Let it be decided as infructuous and in view of the statement. Let no dispute award be sent to the Govt.

R. B. SRIVASTAVA, Presiding Officer  
[No. L-12012/41/84-D.IV(A)]

नई दिल्ली, 27 मार्च, 1987

क्र. अ. 914—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, पंजाब नेशनल बैंक के प्रधानवक्ता से सम्पर्क नियोजकों और उनके कर्मचारियों के बीच अनुबन्ध में निबिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण गुजरात के पचाह को प्रकाशित करती है, जो केन्द्रीय सरकार को 10 मार्च 1987 को प्राप्त हुआ था।

New Delhi, the 27th March, 1987

S.O. 914.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Gujarat as shown in the Annexure, in the industrial dispute between the employers in relation to the Punjab National Bank and their workmen, which was received by the Central Government on the 10th March, 1987.

BEFORE SHRI G. S. BAROT, PRESIDING OFFICER,  
CENTRAL INDUSTRIAL TRIBUNAL, AHMEDABAD  
Reference (ITC) No. 9 of 1982

## ADJUDICATION

## BETWEEN

Punjab National Bank, Panchvati, Ahmedabad,

## AND

Their workmen.

In the matter of employees' demand of All India Punjab National Bank Employees Association for permanent absorption of Shri J. K. Borisonia, Ex-peon, Junagarh Branch, etc.

## APPEARANCES:

Shri R. K. B. Singh, Personnel Officer for the bank; &

Shri K. R. Mehta—for the workman.

## AWARD

The industrial dispute between Punjab National Bank, Panchvati, Ahmedabad and the workmen employed under it is referred to me for adjudication u/s. 10(1)(d) of the Industrial Disputes Act, 1947, by Government of India, Ministry of Labour's Order No. L-12012/225/81-D.II(A) dated 22nd April, 1982, in respect of the employees' demand as under:

"Whether the demand of All India Punjab National Bank Employees Association, for permanent absorption of Shri J. K. Borisonia, Ex-Peon, Junagarh Branch in the services of the Bank is justified? If not, to what relief and from what date the workman is entitled to?"

2. The case of Shri H. K. Borisonia, Ex-peon, Junagarh Branch of Punjab National Bank has been represented by All India Punjab National Bank Employees Association, Delhi hereinafter referred to as 'the union' by filing statement of claim ex 2. It is contended by the union that the Manager, Punjab National Bank, Junagarh, hereinafter referred to as 'the Bank' before employing Shri Borisonia, hereinafter referred to as 'the concerned workman' got his name approved from the Regional Manager, Gujarat at Ahmedabad for stop-gap arrangements in subordinate cadre; that while utilising the services of the concerned workman, he was advised to submit an application for employment in stop-gap arrangements; that Shri Borisonia complied with the orders of the Bank and submitted an application; that in the

said application he had clearly mentioned that he is tenth pass which is not equivalent to Matriculation; that his services were utilised as peon/guard for, in all 77 days, as detailed in para 5 of the statement of claim; that in the settlement dated 1st August, 1977 in clause (b) it is stated that employment of temporary employees in future will depend upon exigencies of bank work and for future employment of subordinate staff preference will be given to those temporary employees who are on the penal of the Bank on the date of the settlement on the existing basis; that Shri Borisonia was as on 1st August, 1977 on the penal of the Bank and as such he was entitled to be absorbed permanently as has been done by the Bank in number of similar cases of temporary employees who had hardly put in temporary service between 1 to 10/15 days and have since been absorbed permanently; that a list of such temporary employees has been submitted by the union at ex. 7(1).

3. The case of the union in the statement of claim is that on or before 19th September, 1980 there was a permanent vacancy of subordinate cadre at Bank's Junagarh office and instead of employing Shri Borisonia some other person has been employed disregarding the claim of Shri Borisonia; that the union wrote to the Regional Manager for the claim of Shri Borisonia for the said post but the Bank did not accept the case of Shri Borisonia. The union approached different authorities under the Act and finally it has come to this Tribunal for adjudication.

4. The case of the union in the statement of claim is that the workman concerned while applying for temporary employment had clearly mentioned in the application that he is 10th pass and the Branch Manager, Junagarh had got his name approved from the Regional Manager, Gujarat at Ahmedabad whereafter alone he was allowed to work in subordinate cadre and was allowed to continue for 77 days and as such the Bank is estopped from taking any plea, either of over-qualification or any other.

5. The union has relied on the Sastry Award para 493, 495, 522(4) and 524; para 20.12 of the First Bipartite settlement dated 19th October, 1966 and the settlement dated 1st August, 1977 in support of its case.

6. The union has stated that as per facts mentioned in the statement of claim the management itself had waived the condition of being Middle Pass and/or Matric fail in the case of Shri Borisonia and utilised his services for 77 days and his services utilised as on 21st June, 1976 is quite justified as from 22nd August, 1976 his services were abruptly terminated illegally and thereafter another new hand was posted against the said vacancy and the Bank he directed to treat him (Shri Borisonia) as permanent from the said date and pay full back wages and all other benefits.

7. The Bank has filed written statement at ex. 6 wherein it has referred to para 20.7 of the Bipartite settlement dated 19-10-1966 wherein "Temporary Employee" has been defined. The Bank has given details that out of 77 days of services of the cost of the borrower. The Bank has further stated that permanent workman and for 41 days as godown chokidar at the cost of the borrower. The Bank has further stated that subsequently it came to the notice of the Bank that Shri Borisonia had actually passed class 10th in the year 1973 and he was not eligible for appointment in terms of the rules framed for the purpose and as such he was not considered for any further temporary appointment in the Bank.

8. The Bank has stated in its written statement that the action of the Bank is in consonance with the settlement dated 1-8-1977 signed between the Bank and the union. It has further contended that Shri Borisonia was given temporary assignment on the basis of the information given by the Branch Manager that Shri Borisonia was 9th pass and not 10th pass. It has also denied that Shri Borisonia was appointed in any sanctioned vacancy. The Bank has taken up the contention in its written statement that Shri Borisonia was over qualified and his name was not sponsored by the local employment exchange and his name was not in the penal also and as such as per the settlement dated 1-8-1977 Shri Borisonia was not qualified to be employed in the Bank's service. The Bank

has denied that provisions of s.25F(a) and 25G are applicable in the present case. It has also contended that Shri Borisonia was employed always for a specific period and as such there was no necessity to give notice for termination. It has also contended that Paras 522(4) and 524 of the Sastry Award have no application in the present case. The Bank has denied that it has condoned the eligibility criteria in the case of Shri Borisonia as the Bank has not issued any such orders. The Bank has therefore prayed that the demand be rejected.

9. The Bank has produced certain documents and has also led oral evidence.

10. Shri R. P. Shrimali, General Secretary of the Association of Punjab National Bank Employees (Regd.) and affiliated to All India P.N.B. E. Association and National Organisation of Bank Workers has by pursish Ex. 7 contended that the submission made by the Bank in respect of settlement dated 1-8-1977 is not correct and the said settlement is not binding to the members of his union etc. It has further submitted that the recruitment criteria is to be verified at the time of first appointment only and that it should not come in the way of the workman concerned for his permanent absorption at a later stage. The union has also filed written documents as also led oral evidence.

11. Shri K. R. Mehta, authorised representative of the concerned workman has filed pursish ex. 40 and has filed list of documents, wherein a copy of settlement dated 30-3-84 has also been submitted, besides other documents.

12. Shri K. R. Mehta has argued the case on behalf of the concerned workman and Shri R. K. B. Singh, Personnel Officer of the Bank has argued the case on behalf of the Bank.

13. The facts in this case are not disputed. Both parties agree that the concerned workman has worked for 77 days. The dispute in short, is that since the concerned workman was already being assigned temporary assignments from time to time, he should be taken up in the Bank's service in view of settlement dated 1-8-1977 and the union has relied on various awards and settlements. Initially in the statement of claim at different places the union has relied on the settlement dated 1-8-1977. At one stage by ex. 7 Shri R. P. Shrimali (who is also authorised to represent the union vide para 17 of the statement of Claim) stated that the said settlement dated 1-8-1977 is not binding to the union. However Shri K. R. Mehta, who is also one of the authorised representatives on behalf of the union by pursish ex. 40 produced a copy of settlement dated 30-3-84 referred to above to support his case. Both the parties have relied on various settlements and awards and I will deal with it one by one.

14. The main emphasis of the union is on the settlement dated 1-8-1977, ex. 28 and 30-3-1984, ex. 40/1. Item no. 6 of the settlement dated 1-8-1977 is relevant, which is reproduced hereunder :

"It is understood that employment of temporary employees in future will depend upon exigencies of bank work and for future employment of subordinate staff, preference will be given to those temporary employees who are on the panel of the Bank on the date of this settlement on the existing basis."

Accordingly action was initiated to prepare a panel for which application were invited and Shri Borisonia, the concerned workman herein also applied. However, his name was not put on the panel as he did not fulfill the required qualifications. The qualifications prescribed for this post is 'Middle Pass' as per circular no. 2 dated 20-4-72 annexed as Annexure 'A' to the written statement. The All India Punjab National Bank Employees Association, Delhi vide its letter No. RM/CR/SC-3816 dated 15-10-80, a copy of which is on the Court's record a ex. 22, in which the union pleaded the case of Shri Borisonia before the management and in support of which the union itself has quoted personnel Div. Circular letter No. 15/77 dated 2-2-1977 which reads as under :

"Recruitment of sub-ordinate staff.

In this connection it is clarified that a 9th pass or 10th fail is eligible for appointment in the sub-

ordinate cadre but a Matric Pass or 10th or Higher Secondary is not eligible for appointment in sub-ordinate cadre."

Copy of the School Leaving Certificate produced at ex. 12 shows that Shri Borisonia was studying in Standard XI (eleventh) since June 1973 and reason for leaving school is mentioned as—"Having completed the terms and S.S.C.E. Course, Completed the days. Not filled up the form for the S.S.C.E. March 1974." From the School Leaving Certificate it is clear that he was studying in Standard XI since June 1973, which means he has passed Xth Standard. As such, as per the above referred rule, Shri Borisonia is disqualified for the said post. So he cannot get the benefit of the settlement dated 1st August, 1977. Shri K. R. Mehta, however, stressed his point that at the time of first appointment only the eligibility criteria etc. is to be seen and once an appointment is given, even if a workman does not possess the required qualifications, it is deemed to have been condoned. I do not agree with this contention because the assignments given to Shri Borisonia were purely temporary, say for 25 days, 1 day, 30 days and 21 days. Out of these 77 days of employment he was given temporary assignments for 41 days as godown chowkidar at the cost of borrower. So, in fact he was put on temporary basis for 25 days, 1 day and 10 days and since he was a local man, he may have been offered this job relying on the oral information given by Shri Borisonia about his academic qualifications, the exact position is not brought out on the record as the witness for the Bank Shri Gurnantbhai Naranghdas Ex. 32 says that one Shri B. N. Shah, the Branch Manager at that time had given the orders and he has absolutely no knowledge about the present case. All the same, the fact is that, irrespective of his previous temporary assignments, Shri Borisonia does not possess the required qualifications, since he is over-qualified, and as such his name is not on the panel maintained by the Bank. Strictly speaking, the academic qualifications should be verified while appointing persons, but in cases like the one before us, where the appointments are to be made only in stop gap arrangements in subordinate service for short duty periods, it is just likely that the Branch Manager may have relied on the oral version of the candidate about his academic qualifications especially when he is a local hand and he may not have bothered to scrutinise his academic qualifications. This is also borne out from the copies of the appointment orders, ex. 10 and 11 which appear to be in a prescribed proforma type wherein it is stated that he should produce, before joining, his educational qualifications certificate in original with copies thereof, which leads to an inference that the same is not produced before joining his duties and the Branch Manager appears to have relied on the oral version of the candidate about his academic qualifications and it is not clear from the record of the case that Shri Borisonia has in fact produced the educational qualifications certificates as demanded by the Bank before joining duty. It is only at the time when a panel of temporary workman was to be prepared, that Shri Borisonia's academic qualifications were looked into when it was found that he was not qualified, he being over qualified.

15. Shri K. R. Mehta has then relied on the settlement dated 30th March, 1984. This settlement makes a distinction between temporary workman on or after 1st January, 1966 and those working prior to 1st January, 1966. Shri Borisonia has rendered service in 1975 and 1976. So his case will be covered under clauses 1(a) to 1(e) and since he does not possess the eligibility criteria as mentioned therein he cannot get the benefit of this settlement also.

16. Having discussed the actual factual position, I will now take up and discuss different clauses of the settlements and awards taken by both the sides. Before, however, disposing of the legal contentions raised in this case I would like to dispose of the plea of the union that the Bank has, in accordance with the terms of the settlement dated 1st August, 1977, given appointments to some 19 such persons listed at ex. 7(1) who have worked for lesser number of days, the smallest period being 14 days shown at s. no. 12 and secondly who had much better academic qualifications shown at s. no. 16, viz., one Shri Prem Bisti, who was in B.A. Final besides three others who were matriculates. However, the union has not shown to the Tribunal that those employed by the Bank as listed in ex. 7(1) were possessing the required qualifications, viz. Middle Pass in case of peons, etc. and

in case of persons shown at s. no. 16 to 19 those who are matriculates and B.A. whether they were employed as peons in terms of the settlement dated 1st August, 1977. In view of this, the contention of the union that the Bank in other parts of the country have employed similarly situated persons in the Bank's service cannot be upheld.

17. The union has then relied on S. 25F of the Act which states as under :

"25F. No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by the employer until—

Shri Borisonia was employed for 77 days only (i.e. less than one year) and so provisions of S. 25F will not be applicable in his case."

18. The union has then relied on S. 25G of the Act which states as under :

"25G. Whert any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workman in that establishment in the absence of any agreement between the employer and the workman in this behalf the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

Shri Borisonia was employed for stop-gap valancies for particular periods only and in the appointment orders itself issued to him, it was specifically said so. In view of this, provisions of S. 25G will not be applicable in the present case.

19. The union has then relied on the case of Shri Santosh Gupta v/s. State Bank of Patiala reported in AIR 1980 SC 1219. The head-notes are as under :

"Thus, the discharge of the workman on the ground she did not pass the test which would have enabled her to be confirmed was 'retrenchment' within the meaning of S. 2(oo) and, therefore, the requirements of S. 25F had to be complied with."

In the case before us Shri Borisonia was employed only on purely temporary basis for stipulated periods at different times and was not on the regular list of 'temporary workmen' and as such the question of terminating his services does not arise at all as on the expiry of the stipulated period his services automatically came to an end by virtue of the appointment order itself. The question, therefore, of giving him notice of retrenchment does not arise and he is not entitled to any retrenchment compensation as stipulated under the I.D. Act.

20. The union has then relied on paras 493, 495, 522(4) and 524 of the Sastry Award. They read as under :

"Para 493 :

xxx            xxx

Candidates who have worked temporarily and whose services have been approved of should be considered after those of the retrenched staff referred to above."

xxx            xxx

"Para 495 :

"We further direct that on a candidate's appointment direct that ordinarily the period of probation should not exceed 6 months."

xxx            xxx

"We further direct that on a candidate's appointment as a temporary employee, a probationer or a permanent member of the staff, the bank shall give him a written order specifying the kind of appointment and the pay and allowances to which he would be entitled and that such a written order shall be given on the appointment of a part time employee also."

"Para 522(4) :

522. We now proceed to the subject of termination of employment. We give the following directions :  
xxx            xxx

(4) The services of any employee other than a permanent employee or probationer may be terminated, and he may leave service, after 14 days' notice. If such an employee leaves service without giving such notice he shall be liable for a week's pay (including all allowances)."

"Para 524. We have already provided for gratuity being given in the case of termination of the services of a workman who has put in 10 years' service and more. For other cases, we direct that compensation should be paid on the following scale :

(1) Temporary employees who are engaged for indefinite periods shall be entitled to one month's pay and allowances. Where however temporary employees are engaged for definite periods which have been mentioned in their appointment letters no compensation will be payable."

The union has also relied on para 20.12 of the Bipartite settlement dated 19th October, 1966 which reads as under :

"Other things being equal, temporary workman (other than godown-keeper) will be given preference for filling permanent vacancies and if selected they may have to undergo probation."

Considering the legal position relied upon by the union, as reproduced hereinbefore, it will be seen that Shri Borisonia has no case as he is neither temporary nor approved one. He is not on probationalsol. He has been given appointment orders which are in writing which stipulates the time for which he is appointed. He has not bten selected to be plated on the panel, he being over-qualified.

21. The union has also relied on para 20.7 of the First Bipartite Settlement dated 10th October, 1966 which reads as under :

"In supersession of paragraph 21.20 and sub-clause (c) of paragraph 23.15 of the Desai Award "Temporary Employee" will mean a workman who has been appointed for a limited period for work which is of an essentially temporary nature or who is employed temporarily as an additional workman in connection with a temporary increase in work of a permanent nature and includes a workman other than a permanent workman who is appointed in a temporary vacancy cause by the absence of a particular permanent workman."

According to the above referred term of the settlement Shri Borisonia is a temporary workman. However, for getting himself enrolled as a temporary workman he has got to possess the necessary qualifications, and as discussed above, Shri Borisonia does not possess the required qualifications, he being over-qualified.

22. The Bank has then relied on the settlement dated 1st August, 1977 which I have already discussed above and the case of Shri Borisonia does not fall into the categories enumerated therein. The demand, therefore, cannot be granted.

23. In view of the factual position as well as the legal position discussed above the demand of the union cannot be granted and is therefore rejected. The parties to bear their own costs.

G. S. BAROT, Presiding Officer

Ahmedabad :

Dated : 26-2-1987.

[No. L-12012/225/81-D.II.A/D.IVA]

का.शा. 915.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, बम्बई पत्तन व्यास के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट आध्यात्मिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण स. 1, बम्बई के पंचाट की प्रकाशित करता है, जो केन्द्रीय सरकार को 11 मार्च 1987 को प्राप्त हुआ था।

S.O. 915.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1 Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bombay Port Trust, Bombay and their workmen, which was received by the Central Government on the 11th March, 1987.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NO. 1, BOMBAY**

Reference No. CGIT-12 of 1986

**PARTIES :** Employers in relation to Bombay Port Trust, Bombay

**AND**

Their Workmen

**APPEARANCES :**

For the Workmen : Mr. Ramnath Shekar, Advocate

For the Employer : Mr. Sarkar

**INDUSTRY :** Ports & Dock **STATE :** Maharashtra

Bombay, dated the 9th day of February, 1987

**AWARD**

The following dispute between the management of Bombay Port Trust in relation to its Container Equipment Section at Bombay and Shri Vijaykumar Dalsukhbhai Rana, a technician working in the Container Equipment Section of Chief Mechanical Engineer's Department, was referred to this Tribunal by Order No. L-31012/2/85-D.IV(A) dated 6-2-1986 by the Central Government in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 :—

“Whether the action of the management of Bombay Port Trust in relation to its Container Equipment Section at Bombay in terminating the services of Shri Vijaykumar Dalsukhbhai Rana, a technician working in the Container Equipment Section of Chief Mechanical Engineer's Department with effect from closure of working hours of 3-3-1984 is justified? If not, to what relief the workman is entitled?”

In the statement of claim filed on behalf of the workman by the Bombay Port Trust Technical Supervisory Staff Association (hereinafter mentioned as the Association) the following demand was made :—

“Vijaykumar Dalsukhbhai Rana, should be reinstated with full back wages and continuity in service together with all the emoluments with effect from the closure of working hours on 3rd March, 1984 upto date and other consequential reliefs.”

3. Pursuant to an advertisement given by the employer the workman herein applied for the post of a Technician. He was selected and appointed as a Technician with effect from 1-7-1983 in the Container Equipment Section of the Mechanical Engineering Department of Bombay Port Trust on a pay of Rs. 600 per month and other allowances admissible under Port Trust Rules. The workman was informed by Memo dated 30-6-1983 that he would be on probation for a period of one year from the date of joining the service. He was also informed that the appointment was of purely temporary nature and liable to be terminated

at any time during the probationary period, without notice and without assigning any reason. In pursuance to this appointment letter cum Memo, the workman reported for work at the appointed hour on 1-7-1983 and was in continuous service of the Port Trust till 3-3-1984. On 1-3-1984 he was served with a Memo purported to have been signed by the Additional Chief Mechanical Engineer of the Bombay Port Trust. By this Memo, the workman was informed that his services stood terminated after the closure of the working hours on 3-3-1984. The Memo reads as follows :—

“In accordance with para 3 of the appointment letter issued to him vide this office No. CME/E 1-CES/8595 dated 1-7-1983, Shri V. D. Rana, Temp. Technician Container Equipment Section, is hereby informed that his services shall stand terminated after the closure of working hours on 3-3-1984. He is directed to hand over his dock entry permit to Shri G. N. Mirji, Asstt. Superintendent on 3-3-1984.”

4. On receiving the Memo the workman approached the Association who made a representation to the Chairman of the Port Trust on 2-3-1984 and requested him to grant a personal interview on that day and look into the case personally. By letter dated 5-3-1984 the Chairman informed the General Secretary of the Association that no appeal lies under Bombay Port Trust Employees (Classification, Control and Appeal) Regulation 1976, since vide Regulation 8 termination of the services during or at the end of the period of probation in accordance with the terms of appointment does not constitute a penalty. The Chairman treated the appeal as an administrative representation and passed on to the Dy. Chairman, in whom such matters vested. Before that on 3-3-1984 the workman approached the State Labour Court at Bombay complaining that the termination of his services amounted to unfair labour practice under Section 28 read with item 1 of Schedule IV of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, As, however, the said enactment was not applicable to the Bombay Port Trust the State Labour Court had no jurisdiction to entertain the matter which was subsequently withdrawn by the workman. Thereafter the Association took up the matter with the Regional Labour Commissioner (C), Bombay, but the conciliation proceedings failed.

5. According to the workman the termination of his services amounts to retrenchment and as he had actually worked for more than 240 days within a year prior to the date of termination, the retrenchment effected without following the procedure prescribed in Section 25F of the Industrial Disputes Act, was null and void.

6. It is the case of the management that the workman was a probationer and that during the period of probation he committed grave misconduct and hence he was removed from service in accordance with para 3 of the appointment letter and hence the termination did not amount to retrenchment within the meaning of Section 2(oo) of the Industrial Disputes Act. The management further contended that the workman was not in the service for a period of one year and had not actually worked for 240 days before his services were terminated, and therefore it was not necessary to follow the procedure prescribed under Section 25F of the Act.

7. Section 2(oo) of the Industrial Disputes Act defines retrenchment as follows :—

“(oo) ‘Retrenchment’ means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

(a) voluntary retirement of the workman or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or



(bb) termination of the service of the workman as a result of the non-renewal of the contract of the employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c) termination of the service of a workman on the ground of continued ill health."

Retrenchment thus does not include four contingencies mentioned in sub-clause (a), (b) (bb) and (c) which result in termination of the service. But admittedly the present termination does not fall within any of these clauses of the definition. It is now well settled that the expression retrenchment must include every termination of service by an act of the employer except punishment inflicted by way of disciplinary action.

8. It is the case of the management that the services of the workman were terminated by way of punishment for misconduct. In the written reply given on behalf of the management to the statement of claim of workman, a reference is made to the report received by the Additional Chief Mechanical Engineer from the Assistant Manager, Container Cell about the delay in carrying out shifting operation of transainer from import the export yard and also to be report made by the Superintending Engineer recommending to the Additional Chief Mechanical Engineer to terminate the services of the workman forthwith. It is the case of the management that on the basis of this report the Additional Chief Mechanical Engineer who is the appointing and disciplinary authority of Shri Vijaykumar Bal-sukhbhai Rana accorded his approval for termination of the services of the workman on the same day. It is, however, pertinent to note that admittedly no show cause notice was issued to the workman nor any departmental enquiry was held in respect of the alleged misconduct. Apart from that, the case of the management that the services of the workman were terminated for misconduct is an afterthought because the Memo by which the services of the workman were terminated is blissfully silent about this aspect of the matter. On the contrary it is mentioned in the Memo, that the services of the workman were terminated in accordance with para 3 of the appointment letter, which empowered the management to terminate the services of the workman at any time during the probationary period, without notice and without assigning any reason. That the services of the workman were not terminated by way of punishment is clear from the reply dated 5-3-1984 given by the Chairman to the General Secretary of the Association. The Chairman made it clear while asserting that no appeal was maintainable, that in view of Regulation 8, termination of the services during or at the end of the period of probation in accordance with the terms of appointment, does not constitute a penalty. It is therefore, crystal clear that the termination of the services of the workman was no by way of punishment for misconduct. Moreover, it is was so, then it would be had because the punishment was inflicted without giving the workman an opportunity to show cause or without holding an enquiry.

No doubt the workman was a probationer and his services were terminated before the probation period came to a satisfactory end. But that does not make any difference because the termination of service even of a probationer for any reason whatsoever, except by way of punishment for misconduct, amounts to retrenchment under Section 2(oo) of the Industrial Disputes Act and that the procedure prescribed under Section 25F of the Act must be followed before effecting the termination, if the workman was in continuous service for a period of one year within the meaning of Section 25-B of the Act before the action was taken. This position was categorically made clear by their Lordships of the Supreme Court in the case of Management of Karnataka State Road Transport Corporation, Bangalore vs. Mr. Boriaiah (AIR 1983, SUPREME COURT 1320). Their Lordships have observed as follows in para 13 of the judgement :—

"Once the conclusion is reached that retrenchment as defined in Section 2(oo) of the Disputes Act covers every case of termination of service except those which have been embodied in the definition, discharge from employment or termination

of service of a probationer would also amount to retrenchment."

In that case the employees whose services were terminated were probationers at the time of discharge from service and it was the stand of the employer that the order of discharge in every case was on account of unsatisfactory service.

10 This brings me to the alternative contention raised by the management namely that as the workman was not in continuous service for a period of one year and had not actually worked for 240 days during this period he cannot be considered as being in continuous service during the period of one year under section 25B of the Industrial Disputes Act and hence it was not necessary to follow the procedure prescribed under Section 25 F of the Act before terminating the services. Relying on the ruling of the Supreme Court in *Sur Enamel Stamping Works Ltd. Vs. The workmen* (AIR 1963 SUPREME COURT 1914) Shri Sarkar for the management contended that before the workman can be considered to have completed one year of continuous service it must be shown first that he was employed for a period of not less than 12 calendar months and next that during those 12 calendar months he had actually worked for not less than 240 days. According to him as the workman in the present case was not employed for 12 months and that he had not actually worked for 240 days, he had not satisfied the requirements of Section 25B of the Act and hence he is not entitled to seek relief under Section 25 F of the Act. The decision however, is not of any avail to the management in this case because it is based on the interpretation of Sections 25F, 2(eee) and 25B of the Industrial Disputes Act, as these provisions stood before the amendment made by Amendment Act of 1964. By this Act Section 2(eee) was deleted and a deeming provision was incorporated in Section 25 B by which the workman though unemployed for a period of 12 months will be deemed to be in continuous service within the meaning of Section 25B if he had actually worked for not less than 240 days during the period of 12 calendar months preceding the date of termination. Section 25B as it stands after the Amendment of 1964 reads as follows :—

"25B. Definition of continuous service for the purpose of this Chapter,—

- (1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal or a lock-out or a cessation of work which is not due to any fault on the part of the workman.
- (2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—
  - (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—
    - (i) one hundred and ninety days in case of a workman employed below ground in a mine; and
    - (ii) two hundred and forty days, in any other case;
  - (b) for a period of six months, if the workman during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—
    - (i) ninety-five days, in the case of a workman employed below ground in a mine; and
    - (ii) one hundred and twenty days, in any other case.

**EXPLANATION**—For the purposes of clause (2), the number of days on which a workman has actually worked under an employer shall include the days on which—

- (i) he has been laid off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, (20 of 1946), or under this Act or under any other law applicable to the industrial establishment;
- (ii) he has been on leave with full wages, earned in the previous year;
- (iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and
- (iv) in the case of a female, she has been on maternity leave so however, that the total period of such maternity leave does not exceed twelve weeks."

It is thus that after the Amendment Act of 1964 it is not necessary to satisfy both the conditions and as provided by sub-section 2 of Section 25B of the Act where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer for a period of one year, if during the period of twelve calendar months preceding the date with reference to which calculation is to be made, he has actually worked under the employer for not less than one hundred and ninety days in case of workman employed below ground in a mine; and two hundred forty days in any other case.

11. As mentioned above the workman was in the service from 1-7-1983 till end of 3-3-1984 i.e. for a period of 247 days during 12 months preceding the date on which his services were terminated. The management has filed a statement which shows that out of 247 days during which the workman was in the employment he actually worked on 164 regular working days and on 20 out of 34 Sundays: he was given 20 days off in lieu of working on Sundays and compensatory off on 2 days, and that during this period there were seven paid holidays and the workman availed of 7 days earned leave and 13 days casual leave. On the basis of this statement, which is accepted as correct by the workman, it was sought to be urged that as the workman had actually worked only for 184 days during the relevant period, he cannot be deemed to be in continuous service for a period of one year within the meaning of Section 25B(2) of the Industrial Disputes Act. It is however an admitted position that the workman was paid wages even for weekly offs in lieu of working on Sundays and the days on which he was given compensatory off. It is also an admitted position that the weekly off on Sunday is a paid off and that the leave which was granted to him earned as well as casual leave, was paid leave. As mentioned above seven days were paid holidays. It is therefore clear that the workman was paid wages for 247 days during the relevant period.

12. Shri Ramanathsekhar, the learned Advocate for the workman relying on the decision of the Supreme Court in the case between the workmen of American Express International Banking Corporation and the Management of American Express International Banking Corporation (1985 II LLJ 539) contended that all days for which the workman is paid wages should be taken into account for reckoning number of days on which he is said to have actually worked. In that case the question that fell for consideration of their Lordships was whether Sundays and other holidays should be treated as days of actual work. Answering the question in the affirmative their Lordship have observed as follows in para 5 of the judgement.

"The expression which we are required to construe is 'actually worked under the employer'. This expression, according to us, cannot mean those days only when the workman worked with hammer, sickle or pen, but must necessarily comprehend all those days during which he was in the employment of the employer and for which he had been paid wages either under express or implied contract of service or by compulsion of statute, standing orders etc. The learned counsel for the management would urge that only those days which are

mentioned in the Explanation to S. 25B(2) should be taken into account for the purpose of calculating the number of days on which the workmen had actually worked though he had not so worked and no other days. We do not think that we are entitled to so constrain the construction of the expression 'actually worked under the employer'. The explanation is only clarificatory, as all explanations are, and cannot be used to limit the expanse of the main provision. If the expression 'actually worked under the employer' is capable of comprehending the days during which the workman was in employment and was paid wages and we see no implement to so construe the expression, there is no reason why the expression should be limited by the explanation. To give it any other meaning than what we have done would bring the object of Section 25F very close to frustration."

13. It was sought to be urged on behalf of the management that, as was done in that case, only Sundays and paid holidays should be taken into account for reckoning the days on which the workman actually worked and if that test is applied then the workman in this case had actually worked only for 205 days (164 days on which he actually worked, 34 Sundays and seven paid holidays) and hence he cannot be said to have been in continuous service for one year as contemplated by Section 25B(2) of the Act. This contention is fallacious because their Lordships nowhere stated that only Sundays and paid holidays can be included in the term 'actually worked'. They included only those days because the only question before them was whether Sundays and other paid holidays can be taken into account for reckoning the days of actual work. The question whether any other days should also be taken into account for that purpose was not expressly before their Lordships in that case. Moreover while answering the question that fell for consideration their Lordships laid down the test which is to be applied for determining the number of days of actual work. The test that all days which the workman was in the employment and for which he had been paid wages either under express or implied of service or by compulsion of statute, standing orders etc, must necessarily be taken into account for reckoning number of days on which the workman is said to have actually worked. Hence all those weekly offs, paid weekly holidays, compensatory offs and the days on which the workman enjoyed earned and casual leave, must be taken into account for the purpose of reckoning the number of days the workman is deemed to have actually worked within the meaning of Section 25-B(2)(a) of the Industrial Disputes Act. As mentioned above the workman was paid wages for 247 days during which he was in the employment of the Port Trust. It must therefore be held that he was in continuous service of the employer for a period of one year within the meaning of Section 25B of the Act and hence before terminating his services it was incumbent on the management to follow the procedure prescribed in Section 25F of the Act. As this was not done the retrenchment was ineffective and the termination of service was illegal. As stated by the Supreme Court in *Mohan Lal Vs. The Management of M/s. Bharat Electronics Ltd.* (AIR 1981 SUPREME COURT 1253) in para 17 of the judgement the consequence is that where the termination is illegal especially where there is an ineffective order of retrenchment, there is neither termination nor cessation of service and a declaration must follow that the workman concerned continuous to be in service with all consequential benefits.

14. In the result it is declared that the termination of service of the workman Shri Vijaykumar Dalsukhbhai Rana, was illegal and that he continues to be in the service of the Bombay Port Trust and is entitled to get full back wages from the date of termination till actual reinstatement along with all other consequential benefits. The management is directed to reinstate the workman forthwith and to pay him all back wages in full and other benefits within a period of three months from today.

Award accordingly.

M. S. JAMDAR, Presiding Officer

[No. L-31012/2/85-D.IV(A)]

K. J. DYVA PRASAD, Desk Officer

नई दिल्ली, 24 मार्च, 1987

का.आ. 916.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार गन कर्रिज फैक्ट्री जबलपुर, के अन्तर्गत से सम्बन्धित नियोजकों और उनके कर्मचारों के बीच, अन्तर्गत में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 24th March, 1987

S.O. 916.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, as shown in the Annexure in the industrial dispute between the employers in relation to the management of Gun Carriage Factory, Jabalpur and their workmen, which was received by the Central Government.

BEFORE SHRI V. S. YADAV, PRESIDING OFFICER,  
CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT, JABALPUR (M. P.)

Case No. CGIT/LC(R)(111)/1985

## PARTIES :

Employers in relation to the management of Gun Carriage Factory, Jabalpur (M. P.) and their workman Shri R. K. Jain, Organising Secretary of G. C. F. Employees Union, G.C.F. Estate, Jabalpur (M.P.).

## APPEARANCES :

For Union.—Shri P. S. Nair, Advocate.

For Management.—Shri A. K. Chaube, Advocate.

INDUSTRY : Ordnance. DISTRICT : Jabalpur (M.P.)

## AWARD

Dated 13th February, 1987

This is a reference made by the Central Government in the Ministry of Labour vide Notification No. L-14012 (15)/85-D. II(B) dated 6th December, 1985 and dated 1st/8th August, 1986 (Corrigendum) for adjudication of the following dispute :—

- (1) "Whether the action of the management of Gun Carriage Factory, Jabalpur (MP) in punishing the workman Sri R. K. Jain, Organising Secretary of Gun Carriage Factory Employees Union by order No. 237918/C/81/V. O. dated 21-1-1982 and transferring him from Jabalpur to Tiruchinapalli, is justified? If not, to what relief the workman concerned is entitled?"
- (2) "Whether the removal from service ordered by the G. M. Tiruchinapalli by order dated 26-12-84, while the dispute was pending in conciliation has any bearing over Sri R. K. Jain, the workman concerned? If so, what would be the effect?"

2. Parties have filed their respective documents. The position that emerges out from the admitted and proved documents appears to be that the G.C.F. Employees Union (hereinafter referred to as the Union) was established and registered in the year 1970. The following persons were the active members and office bearers of the Union (See Ex. W/1 filed in this case) :—

Shri Mahendra Bajpal.  
Shri Anantram Tiwari.  
Shri S. C. Chowdhury.  
Shri John Parer.  
Shri Ramapati Yadav.

Shri Rajendra Jha.  
Shri Suresh Gangwar.  
Shri R. S. Tripathi.  
Shri K. P. Sen.  
Shri R. K. Jain—Organising Secretary.  
Shri Surajma Singh.  
Shri Ramlakhan Mishra.  
Shri D. P. Upadhyay.  
Shri Ramsinghasan Sharma.  
Shri Rameshwar Patel.  
Shri Sant Lal.  
Shri Tikaram Vishwakarma.  
Shri Mohanlal Vishwakarama.  
Shri Nada Swamy.  
Shri Sidhuram.  
Shri Kewal Krishna.  
Shri L. P. Tiwari.  
Shri P. K. Chouhan.  
Shri Dhaniram Patel.  
Shri Rajendra Vishwakarma.

The workman, Shri R. K. Jain, was one of its active office bearers and was Organising Secretary of the Union.

3. Shri B. K. Ghai joined as the General Manager of the Gun Carriage Factory, Jabalpur (hereinafter referred to as the Factory) on or about 9th July, 1980 and some how there developed a tussle between the active members of the Union and Shri B. K. Ghai. Union not only submitted Memorandum to the Defence Secretary but made some complaints also against Shri B. K. Ghai and resorted to hunger strike and notices of strike etc., taking out Hand Bills, News Items against him. On the other hand, Shri B. K. Ghai in his capacity as General Manager of the Factory issued several charge-sheets against members of the union including Shri R. K. Jain. The following charges & punishments were imposed against Shri R. K. Jain :—

(1) Date of order	Offence	Penalty imposed.	Exhibits.
	Gross misconduct		
21-1-82	Deliberately left his place of work, participated in an unauthorised gathering, unauthorisedly entered MPEs office and made wilde accusations. Unauthorisedly and illegally surrounded the car of GM and obstructed its movement. Shouted offensive slogans inside the Factory. Compelled GM. GCF to order to reverse the Car in which he was seated and shouted provocative slogans.	1. Reduction of pay by three stages with cumulative effect. 2. Transferred to O.F. Tiruchinapalli vide order Part II No. 234 dated 21-1-82.	W/6
(2) 26-10-84	Non-compliance of instructions and staying away from duty unauthorisedly.	Removal from service with effect from 26-12-84.	EXW/12

4. The case of the workman further is that a strike ballot was taken out on 11-8-81 on behalf of the union and 98 per cent of the workers of the factory voted in favour of the strike. The management, therefore, came to the conclusion that their action was not proper and negotiated settlement on 13-8-81 settling the charter of demands of the union and regarding the pending charge-sheet General Manager stated that domestic enquiry will be prolonged and neither party will gain thereby and therefore suggested and gave personal assurance that if the workmen give reply to show cause notice admitting the allegations he will not impose any punishment but will merely give an oral warning. Believing the assurance and with a view to maintain good atmosphere and good industrial relation the workman gave reply to show cause notice as suggested by the General Manager.

5. Thus the punishment imposed on the workman is bad in law on the following grounds amongst others :—

1. Shri B. K. Ghai being the complainant and the witness could not have issued the charge-sheet and imposed any punishment.
2. He was estopped from imposing any punishment in view of his assurance.
3. The punishment was imposed without holding any enquiry.
4. He took into consideration various documents and statements produced behind the back of the workman and which were never made available to him.
5. Shri Jain was appointed by the D.G.O.F. so Mr. B. K. Ghai, General Manager, had no authority to issue charge-sheet or impose disciplinary punishment on him.
6. The punishment imposed is of acts of victimisation, malafides and against the principle of natural justice as well as against fundamental rights of trade union activities.
7. Transfer order was illegal, arbitrary, without jurisdiction and amounts to victimisation for trade union activities.
8. Since the transfer was illegal the workman could not have been punished for not complying it.
9. Union had raised industrial dispute regarding the transfer and punishment imposed on the workman. Therefore during the pendency of the conciliation proceedings the removal of service of the workman was violation of the provisions of Sec. 33 of I.D. Act.

6. The management of G.C.F. Jabalpur in its reply did not refute the allegations parwise. However the contention of the management in its statement of claim is that after due consideration and enquiry into the charges of gross misconduct on the part of Shri R. K. Jain the order dated 21-1-82 was fully justified. The misconduct on his part was subversive to and derogatory to service conduct rules and cannot be held to be in conformity with union activities and are definitely outside the field of any union activities. Thereafter the management has mentioned that the charges levelled and punishment awarded to him i.e. penalty of reduction of pay by three stages for two years with cumulative effect and his suspension was revoked with effect from 21-1-82 (AN). It is further contended that after the revocation order he was transferred and directed to report to new station. Punishment has been awarded on proof of charges whereas transfer has been made from administrative point of view is not open to challenge. Shri Jain is therefore not entitled to claim any relief. G. M. Tiruchinapalli denied the allegations of workman.

7. The enquiry papers have been relied on by the parties besides the applicant gave his own statement on affidavit and relied on certain documents Ex. W/1 to Ex. W/39.

8. The main challenge to the show cause notice and the departmental punishment is that Shri B. K. Ghai was himself in the position of complainant and a witness. Therefore he

could have neither issued the charge-sheet nor could have imposed the punishment awarded by him. I have gone through the record and I find that not only the defence documents Ex. W/1 to Ex. W/39 but documents of enquiry papers relied on by the management clearly go to show that this movement of the union members was directed against the General Manager, Shri B. K. Ghai and he was at least one of the aggrieved party and personally prejudiced against the active members of the union.

9. On behalf of the management, it has been contended that active members of the union went beyond the legitimate activities of the union and they had absolutely no right to act in the manner as they did. Therefore they made themselves liable to the punishment awarded to them for their misconduct subversive of discipline as charge-sheeted. This may be true, but the law of natural justice requires that such activities of the union members or office bearers as are subversive of discipline amounting to misconduct has to be proved by legal evidence before a person could be punished. In the instant case, except the allegations in the charge-sheets there is nothing on record at least before this Tribunal to substantiate the allegations of the management. On the other hand, applicant workman has filed his own affidavit and he has been cross-examined by the management on it. But nothing material is brought out in his cross-examination to discredit his plea in relation to the charges levelled against him. If the management wanted to rebut the allegations of his affidavit it should have either filed the counter affidavit of Shri B. K. Ghai or at least of some responsible officer to refute or rebut the allegations but nothing has been done. I, therefore, see no reason to disbelieve the affidavit of the applicant workman (Pratap Singh Vs. State of Punjab-AIR 1964 SC 72 para 14 relied on).

10. The salient feature of the affidavit of Shri R. K. Jain are that he was an active member and Organising Secretary of the Union. Shri B. K. Ghai joined as General Manager on or about 9th July 1980 at Gun Carriage Factory, Jabalpur. He was not happy with the union activities and therefore started harassing the union members from time to time. Union therefore submitted Memorandum to the Defence Secretary and D.G.O.F. complaining against Shri B. K. Ghai and also issued hand bills, newswitem, notices of strike and resorted to hunger strike. Therefore series of charge-sheets were given to the union office bearers and workers. However, they took out a strike ballot and looking to the result of voting the management negotiated a settlement on 13-8-81 settling the charter of demands of the union. Regarding the pending charge sheets General Manager stated that the D. E. will be prolonged one and neither party would gain thereby and therefore suggested and gave personal assurance that if workman admit the charges, he will not impose any punishment but will merely give oral warning. Thus Shri Ghai bluffed him to admit the charge but inspite of his assurance imposed the following punishment :—

1. Penalty of reduction of pay with three stages with cumulative effect.
2. Transferring the workman to Ordnance Factory Tiruchinapally (Tamilnadu).

Copies of documents and statements recorded at his back were never furnished to him. Though the finding was given on 21-8-1981 but punishment was withheld till January 1982 because of continuous trade union activities. He has further stated that when disciplinary proceedings were started against him he had informed Ordnance Factory, Tiruchinapalli vide letter dated 15-11-1984 and 5-12-1984 that he has raised a dispute which is pending conciliation before the Regional Labour Commissioner, Jabalpur. However, ignoring this information and the conciliation proceedings disciplinary authority of Tiruchinapalli removed him from service by way of punishment.

11. In the case of Gujarat Steel Tubes Ltd. Vs. Its Mazdoor Sabha (AIR 1980 SC 1896) facts were on all fours with the facts of the present case. Relevant extracts of the above case are being reproduced below :—

"The form of the order of termination or the language in which it is couched is not conclusive. The court will lift the veil to see the true nature of the order...

The Court will find out from other proceedings or documents connected with the formal order of termination what the true ground for the termination is.....

A disciplinary inquiry resulting in punishment of particular delinquents cannot but be illegal if the evidence is of mass misconduct by unspecified strikers led by leaders who are perhaps not even workmen.

The workmen were on strike. The strike was illegal. The management was hurt because production was paralysed. The strikers allegedly indulged in objectionable activities. The exasperated management hit back by ordering their discharge for reasons set out in several pages in the appropriate contemporaneous proceeding. Misconduct after misconduct was flung on the workers to justify the drastic action.

Held.—The orders of discharge were bad on this score alone.”

12. In view of the above, it is crystal clear that the action of the General Manager, Shri B. K. Ghai, against the active members of the union amounts to victimization and unfair labour practice in all the charge-sheets given to the workman.

13. I will not take up disciplinary action and punishment awarded by the General Manager, Gun Carriage Factory, Jabalpur. In reply to show cause notice and charge-sheet workman has replied in para 1(Ex. M1) as under:—

“The article of charges from I to VI are not denied.”

The workman has filed an affidavit and deposed that the above statement was obtained on misrepresentation and inducement that if he admits the charge he will not be punished. As already pointed out there is no counter-affidavit to deny this allegation. It appears to be true also because in the body of reply dated 19-8-1981 (Ex. M1) the workman had clearly stated that the details of activities committed by him were in pursuance of the call of the G.C.F. Employee Union of which he was an Organising Secretary without any ill conceived intention and ulterior motive. This firstly goes to show that the plea of the workman was obtained on misrepresentation and inducement, is true. Secondly it further goes to show that it was not an admission of guilt. It could not have been taken as such as has been held in the case of Jaedish Prasad Saxena Vs. State of M. P. (AIR 1961 M.P. 1070). The order dated 21-1-82 (Ex. M14) goes to show that the workman has been given double punishment of reduction of pay by three stages with cumulative effect and by the same order transferred him to Ordnance Factory Tiruchinapalli (Tamilnadu). There was no such admission yet the disciplinary authority did not consider it necessary to conduct a domestic enquiry in presence of the workman and record statement of witnesses and get the documents proved. But it appears that the General Manager has taken into consideration the reply dated 19-8-1981 and passed orders without holding an enquiry. From all this conduct of the disciplinary authority it appears that he was highly prejudiced and went out of the way to victimise the workman. For such a contingency the Government framed instructions in C.C.S. (C.C.A.) Rules 1965 on page 60 item no. 3(ii) which reads as follows:—

“(3) When President's power for nominating an ad hoc disciplinary authority to be invoked.

(i) ...

(ii) When the competent authority is unable to function as the disciplinary authority. In a case where the prescribed appointing or disciplinary authority in respect of an official on account of his being personally concerned with the charges or being a material witness in support of the charges, the proper course for that authority is to refer such a case to Government in the normal manner for nomination of an adhoc disciplinary authority by a Presidential Order under the provisions of Rule 12(2) of C.C.S. (C.C.A.) Rules, 1965.”

Under this Rule Shri B. K. Ghai should have referred the matter to the Government for appointment of an adhoc disciplinary authority to conduct just, legal and impartial domestic enquiry against the workman but instead of doing so he himself became the prosecutor and judge at the same time. It is now well settled that no person could be a judge in his own cause and no witness could testify that his own testimony is true as has been held in the case of 1980-II-111 p. 270 B.J. Warkari Vs. K. V. Karamjari, 1986 (SLR (i) 558 S. Tiwari Vs. State of M. P.; 1984-MPLJ 516. This is what has been done by Shri B. K. Ghai. Therefore the order dated 21-1-1982 passed by Shri B.K. Ghai (Ex. M14) regarding reduction of pay being contrary to law is quashed.

14. As for the second punishment of transfer to Tiruchinapalli, in a similar case of this very Gun Carriage Factory, Jabalpur, one M. Hussain was transferred by the management from Gun Carriage Factory, Jabalpur to Metal and Steel Factory, Ishopara. In that case of M. Hussain Vs. Union of India and others in Misc. Petition No. 879/84 his Lordship Hon'ble Justice Shri Gulab Gupta while quashing the transfer order held as under:—

“It is common ground that the matter in so far as disciplinary action is concerned, is covered by the provisions of Central Civil Services (Classification, Control and Appeal) Rules. Rule 11 of these rules provides for imposition of penalty on a government servant for good and sufficient reasons. These penalties do not include transfer as or, punishment. Under the circumstances, imposing penalty of transfer would not be in accordance with these rules and would be beyond the jurisdiction of the Disciplinary Authority. Since the impugned transfer order is the direct outcome of the Disciplinary proceedings and is founded upon the same, the same must be held illegal and outside the scope of the respondents.”

In para 6 of the same it has been further held—

“The Courts have been reluctant to sit in appeal over the exigencies of business and find out whether they demanded the transfer or not. It is generally conceded that the management is in the best position to decide these questions. In spite of it, the law courts have been interfering with transfer if the same was arbitrary or mala fide. In Prakash Chandra Vs. State of M. P. (1980—MPLJ 251) this court had the occasion to consider a mala fide transfer “(Cases cited—1981 MPIJ 9; 1983 MPLJ 527 and 1966—I—LLJ 440).

15. Applying the above law to the facts and circumstances of the present case I am of the opinion that the order of transfer of the workman was also not only illegal but was arbitrary, an act of victimisation and unfair labour practice. Therefore it was not justified and is quashed.

16. Coming to the second reference regarding the punishment awarded by the General Manager, Tiruchinapalli it has been challenged on two grounds. Firstly that it was against Sub-section (1) of Sec. 33 of the I.D. Act. The workman has produced certain documents in this regard and proved them by his affidavit. Charge against the workman in the domestic enquiry at Tiruchinapalli was as under:—

“1.1 Shri R. K. Jain, Turner ‘C’ was charged—

1.1.1 that he has not reported for duty to O.F.T. pursuant to Gun Carriage Factory Jabalpur F. O. Part II No. 234 dated 21-1-82 by which he was transferred on permanent basis.

1.1.2 that he had neither reported nor intimated regarding his absence.

1.1.3 that he was staying away unauthorisedly.”

The workman had moved the Regional Labour Commissioner, Jabalpur raising industrial dispute against the order dated 21-1-82 imposing punishment of transfer etc. as is

apparent from Ex. W/7 letter of the A.L.C.(C) Jabalpur dated 1st December, 1984. The workman vide his letter dated 15-11-1984 (Ex. W/8) and 5-12-1984 (Ex. W/10) of which respectively the postal receipts are Ex. M/9 and Ex. W/11 had informed the management of O. F. Trichinapalli that proceedings under Sec. 10 of the I.D. Act are pending in conciliation before the Labour Commissioner, Jabalpur. This goes to show that the matter connected with the dispute was pending in conciliation when the order of removal from service was passed on 26-1-1984 (Ex. W/12). Therefore no order of discharge or dismissal without the express permission in writing of the Regional Labour Commissioner, Jabalpur, could have been passed. Admittedly no such express permission in writing had been sought before passing the impugned order. Thus the provision of Sub-Section (1) of Sec. 33 of the I.D. Act is attracted and clearly violated.

17. I have already held that the order of transfer passed by the General Manager, G.C.F. Jabalpur was illegal and improper and was in colourable exercise of powers.

18. Consequently I answer the reference as under:—(1) That the action of the management of Gun Carriage Factory, Jabalpur (MP) in punishing the workman Shri R. K. Jain, Organising Secretary of Gun Carriage Factory Employees Union by order No. 237918/C/81/V. O. dated 21-1-1982 and transferring him from Jabalpur to Tiruchinapalli is unjustified. Both the penalties imposed on Shri R. K. Jain by the management are set aside and quashed i.e. the order of reduction of pay by three stages with cumulative effect and his transfer from G.C.F. Jabalpur to Ordnance Factory, Tiruchinapalli be treated as nonest.

(2) The removal from service ordered by the C. M. Tiruchinapalli by order dated 26-12-1984, while the dispute was pending conciliation was illegal and unjustified.

The workman, therefore, is entitled to be reinstated and posted at Gun Carriage Factory, Jabalpur, on the same post and pay as if impugned orders had not been passed. The management is further directed to pay him his entire full back wages with all ancillary reliefs & benefits with continuity of service within three months of this award, else it will carry interest at the rate of 9 per cent per annum. No orders as to costs.

V. S. YADAV, Presiding Officer  
[No. L-14012/15/85-D. II(B)]

का.शा. 917 -- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण से, केन्द्रीय सरकार, भारतीय खाद्य निगम, लुधियाना, के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबरनार के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 917.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Chandigarh, as shown in the Annexure in the industrial dispute between the employers in relation to the management of Food Corporation of India, Ludhiana and their workmen, which was received by the Central Government.

BEFORE SHRI M. K. BANSAL, PRESIDING OFFICER,  
CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT, CHANDIGARH

Case No. I.D. 16/85

PARTIES :

Employers in relation to the management of Food Corporation of India through District Manager, F.C.I. Ludhiana-Punjab.

AND

Their workmen-Mohinder Prashad.

APPEARANCES :

For the Employers

Shri N. K. Zakhmi.

For the workman :

None.

INDUSTRY : F.C.I.

STATE-Punjab

AWARD

Dated, Chandigarh the 16th February, 1987

Present reference No. L-42012(51)/84-D.V. dated the 31st July 1985 under Section 10(1)(d) of the Industrial Disputes Act 1947 was received by this Tribunal for decision which is as under :

"Whether the action of the management of Food Corporation of India in terminating the services of Shri Mohinder Prashad S/o Shri Ram Chander Watchman w.e.f. 15-7-1983 is just and legal. If not, what relief is the workman entitled to and from what date ?

2. The workman Mohinder Prashad used to pursue his case himself and filed his claim. Later on said Mohinder Prashad did not appear from 1-5-1986 onward. Notices were issued to him. Notices issued by Regd. Post have been received back with the remarks that "there is no such person of this address". So this Court is not in a position to serve notice to this employee. So far want of prosecution the reference is answered against the employee/workman.

Chandigarh.

16-2-1987.

M. K. BANSAL, Presiding Officer  
[No. L-42012/51/84-D.V./L.II(B)]

का.शा. 918 -- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, गन कैरिज फैक्ट्री, जबरनार के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबरनार के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6 मार्च 1987 को प्राप्त हुआ था।

S.O. 918.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Gun Carriage Factory, Jabalpur and their workmen, which was received by the Central Government on the 6th March, 1987.

BEFORE SHRI V. S. YADAV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)/(83)/1985

PARTIES :

Employers in relation to the management of Gun Carriage Factory, Jabalpur (M.P.) and their workman, Shri Rampati Yadav, represented through the GCF Employees Union, GCF Estate, Jabalpur (M.P.)

## APPEARANCES :

For Union—Shri P. S. Nair, Advocate.

For Management—Shri A. K. Chaube, Advocate.

INDUSTRY : Ordnance DISTRICT : Jabalpur (M.P.)

## AWARD

Dated, the February 27, 1987

In exercise of the powers conferred by Clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 the Central Government vide Notification No. I-14012(6)/85-D.II (B) dated 23rd September, 1985 referred the following dispute for adjudication :—

“Whether the action of the management of Gun Carriage Factory, Jabalpur (M.P.) in punishing the workman Shri Rampati Yadav by various orders of penalties dated 30-5-83, 18-6-83 and 27-7-1984 for his trade union activities is justified? If not, to what relief the workman concerned is entitled?”

2. Parties have filed their respective pleading and documents. The position that emerges out from the admitted and proved documents appears to be that the G.C.F. Employees Union (hereinafter referred to as the Union) was established and registered in the year 1970, Shri Rampati Yadav was one of its active members and Vice President of the G.C.F. Employees Union.

3. The case of the workman is that Shri B. K. Ghai joined as the General Manager of the Gun Carriage Factory, Jabalpur (hereinafter referred to as the Factory) on or about 9th July, 1980 and somehow there developed a tussel between the active members of the Union and Shri B. K. Ghai. The workmen being the active members of the Union represented the matters of the workmen/employees of the Factory for the peaceful settlement in the interests of the workmen and to maintain peaceful and harmonious industrial relations between the employees and the management of the Factory. But due to anti industrial peaceful attitude of the General Manager of the Factory, Jabalpur no settlement could be reached. Instead of taking initiative in the interest of industrial peace and harmony the General Manager took the vindictive and revengeful attitude against the office bearers and the Executive Members of the Union and let loose his weapons and arms by way of victimisation by imposing severe punishments and transfers against active and leading Trade Union Leaders. Several chargesheets were issued to the workmen who are active trade union leaders including the workman concerned in the present reference. The following chargesheets and punishments mentioned against each charge were imposed on Shri Rampati Yadav:—

Date of Order	Office	Penalty imposed
1	2	3
1. 30-5-83	Gross Misconduct-Sub- versive of Discipline—	Stoppage of one increment w/o c.e. for 1 year (Ex. W/5)
	In that on 21-2-83 at about 11.30 AM while going out through Main Gate was interrogated by senior security JCO Sub-Ram Karan on duty at the Gate as to why he detained in the Factory upto 11.30 A.M. behaved insolently with unparliamentary language.	

1	2	3
2. 18-6-83	Gross-Misconduct — Sub-verse of Discipline In that on 8-2-83 at about 7.30 PM he unauthori- sedly organised an assembly of workers outside the GM/GCF Bungalow No. 1 and shouted offensive slogans against Shri B.K. Ghai, GM/GCF and thereby dis- turbed the peace & tra- quillity of locality.	Stoppage of one incre- ment for a period of one year. This penalty will be effective after com- pletion of previous penalty, if any (Ex. W/7).
3. 27-7-84	Gross-Misconduct Sub- versive of Discipline— In that on 11-3-84 he en- tered the factory late through Vidyanagar Gate after lunch interval at about 3 PM and when was asked to give parti- culars started arguing and used unparliamen- tary language against security staff on duty.	Censured (Ex.W/11)

3. The case of the workman further is that he is illiterate and does not understand English language. His request for supply of charge-sheet in Hindi were denied without any justification. Thus the punishment imposed on the workman is bad in law on the following grounds amongst others :—

1. Shri B. K. Ghai being an aggrieved party and complainant he could not have issued the charge-sheets, imposed punishment without holding an enquiry.
2. The punishment imposed is an act of victimisation and unfair labour practice.
3. The workman being illiterate and he was not supplied with the Hindi version of the charge-sheet or any of the letters. Thus he was deprived of an opportunity to defend himself.
4. The punishment imposed is against the principle of natural justice as well as against fundamental rights of trade union activities.
5. The General Manager took into consideration various documents and statements produced behind the back of the workman and which were never made available to him.

The workman therefore prayed that the orders of punishment be set aside and further be ordered that the workman is entitled for due promotion from the date as per selection list (Trade Test result) and stoppage of increment be repaid to the workman.

4. The management's case is that Shri Rampati Yadav was punished for gross misconduct in the past, for which due enquiry was held and orders passed on consideration of material evidence against him. The penalties imposed on him were fully merited. The same were just and are not liable to be questioned. He is not entitled to any relief asked for by him.

5. Parties have relied on the documents filed in this case and the applicant gave his own statement on affidavit.

6. The main challenge to the departmental punishment is that Shri B. K. Ghai was himself in the position of complainant and awitness. Therefore he could have neither issued the charge-sheet nor could have imposed the punishment award by him. He was not supplied with the Hindi version of the charge-sheet.

7. I have gone through the record and I find that Ex. W-5, Ex. W-7 and Ex. W-14 go to show that the punishment has been awarded merely on "careful examination of prima facie evidence available on record" and no domestic enquiries were held against each charge. Documents Ex. W-2, Ex. W-6, Ex. W-9, Ex. W-11 and Ex. W-13 go to show that the workman requested the General Manager for the supply of Hindi version because he is illiterate and does not understand English. There is no document on record to show that he was supplied with Hindi version of the charge-sheets as asked for by him.

8. On behalf of the management, it has been contended that active members of the union went beyond the legitimate activities of the union and they had absolutely no right to act in the manner as they did. Therefore they made themselves liable to the punishment awarded to them for their misconduct subversive of discipline as charge-sheeted. This may be true, but the law of natural justice requires that such activities of the union members or office bearers as are subversive of discipline amounting to misconduct has to be proved by legal evidence before a person could be punished. In the instant case, except the allegation in the charge-sheets there is nothing on record at least before this Tribunal to substantiate the allegations of the management. On the other hand, workman has filed an affidavit of his own and he has been cross-examined but nothing is brought out to discredit his plea in relation to the charges levelled against him. If the management wanted to rebut the allegations of his affidavit it could have either filed the counter-affidavit of Shri B. K. Ghai or at least of some responsible officer to refute or rebut the allegations but nothing has been done. I, therefore, see on reason to disbelieve the affidavit of the applicant workman (Pratap Singh Vs. State of Punjab AIR 1964 SC 72 para 14, relied on).

9. The salient features of the affidavit of Shri Rampati Yadav are that he was working in the Gun Carriage Factory, Jabalpur as Turner-B scale since last 18 years and he was Vice President of the G.C.F. Employees Union. He was an active trade union worker and represented the cases of the workers before the management of the Factory at Jabalpur but because of the anti-industrial and anti workers attitude of the General Manager, Shri B. K. Ghai, G.C.F. Jabalpur settlement could not be reached in most of the cases. Instead of taking initiative for maintaining industrial peace and harmony Shri B. K. Ghai, took a vindictive and revengeful attitude against the office bearers and executive members of the Union by imposing extreme punishment and transfers for their trade union activities, for example, transfer of S/ Shri R. K. Jain, R. Iba, A. R. Tiwari, M. Hussain etc. He was not supplied with Hindi translation of the charge-sheets.

10. Now I will briefly take up some of the glaring impropriety, illegality in the charge-sheet and punishment awarded to the workman. Documents Ex. W-1 to Ex. W-5 are the documents regarding the alleged misconduct dated 21-2-1983. Memorandum dated 5-3-83 (Ex. W-1) was given to the workman. On 19-3-1983 the workman applied for Hindi Version of the charge-sheet since he was illiterate but the management turned down his legitimate request and wrote to him that he can contact the Labour Officer, Time Keeper or any of his literate friend to understand the contents of the Memo dated 5-3-83 (Ex. W-2 and Ex. W-3). Ex. W-5 is the order of the General Manager dated 30-5-83 imposing the punishment of stoppage of next one increment without cumulative effect for one year. To my mind the management ought to have given him the requisite Hindi version so that the workman could defend himself. Similar is the attitude of the management regarding charge-sheets and punishments imposed on 18-6-83 and 27-7-84. Further more all these punishment orders Ex. W-5, Ex. W-7 and Ex. W-14 go to show that the management considered certain evidence which was taken behind his back without supplying him copy of the same though he demanded the same. Secondly the orders do not disclose what was the prima facie evidence which was considered.

11. In the case of Gujarat Steel Tubes Ltd. Vs. Mazdoor Sabha (AIR 1980 SC 1896) facts were on all fours with the

facts of the present case. Relevant extracts of the above case are being reproduced below :—

"The form of the order of termination or the language in which it is couched is not conclusive. The court will lift the veil to see the true nature of the order...

The Court will find out from other proceedings or documents connected with the formal order of termination what the true ground for the termination is .....

A disciplinary inquiry resulting in punishment of particular delinquents cannot but be illegal if the evidence is of mass misconduct by unspecified strikers led by leaders who are perhaps not even workman. The workmen were on strike. The strike was illegal. The management was hurt because production was paralysed. The strikers allegedly indulged in objectionable activities. The exasperated management hit back by ordering their discharge for reason set out in several pages in the appropriate contemporaneous proceeding. Misconduct after misconduct was flung on the workers to justify the drastic action.

Held.—"The orders of discharge were bad on this score alone."

12. From the attitude of the disciplinary authority it appears that Shri Ghai was highly prejudiced to the workman and went out of the way to victimise him. For a contingency like this the Government framed instructions in C.C.S. (C.C.A.) Rules 1965 on page 60 item No 3(ii) which reads as follows :—

"(3) When President's power for nominating an ad hoc disciplinary authority to be invoked

(i).....

(ii) When the competent authority is unable to function as the disciplinary authority—

In a case where the prescribed appointing or disciplinary authority is unable to function as the disciplinary authority in respect of an official, on account of his being personally concerned with the charges or being a material witness in support of the charges, the proper course for that authority is to refer such a case to Government in the normal manner for nomination of an ad hoc disciplinary authority by a Presidential Order under the provisions of Rule 12(2) of the C.C.S. (C.C.A.) Rules, 1965."

Under this Rule Shri B. K. Ghai should have referred the matter to the Government for appointment of an ad hoc disciplinary authority to conduct just, legal and impartial domestic enquiry against the workman but instead of doing so he himself became the prosecutor and judge at the same time. It is now well settled that no person could be a judge in his own cause and no witness could testify that his own testimony is true as has been held in the case of 1980-II-LJI n. 270 P.J. Warkari Vs. K. V. Karamikar; 1986 SLR(i) 558 S. Tiwari Vs. State of M.P.; 1984 MPLJ 516. This is what has been done by Shri B. K. Ghai. Thus the entire proceedings are vitiated being contrary to law and against natural justice and all the orders passed by the management are set aside.

13. In the instant case, the management in their written statement has not sought an opportunity to prove misconduct before this Tribunal. Therefore they are not entitled to the same.

14. Consequently I hold that the action of the management of Gun Carriage Factory, Jabalpur (M.P.) in punishing the workman Shri Rampati Yadav by various orders of penalties dated 30-5-83, 18-6-83 and 27-7-84 for his trade union activities is unjustified. He is therefore entitled to all increments withheld vide order dated 30-5-83 and 18-6-83



and the censured order dated 27-7-84 expunged. Management is further directed to pay all his dues within three months from the date of this award falling which it will carry 9 per cent interest per annum. No order as to costs.

V. S. YADAV, Presiding Officer

[No. L-14012/6/85-D.II (B)]

का.आ. 919.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, गन कैरिज फैक्ट्री जबलपुर के प्रबन्धतंत्र से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9 मार्च 1987 को प्राप्त हुआ था।

S.O. 919.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Gun Carriage Factory, Jabalpur and their workmen, which was received by the Central Government on the 9th March, 1987.

BEFORE SHRI V. S. YADAV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(89)/1985

#### PARTIES :

Employers in relation to the management of Gun Carriage Factory, Jabalpur (M.P.) and their workman Shri R. P. Patel, Turner (C), represented through the G.C.F. Employees Union, G.C.F. Estate, Jabalpur (M.P.)

#### APPEARANCES :

For Union—Shri P. S. Nair, Advocate.

For Management—Shri A. K. Chaube, Advocate.

INDUSTRY : Ordnance DISTRICT : Jabalpur (M.P.)

#### AWARD

Dated, the February 23, 1987

In exercise of the powers conferred by Clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 the Central Government in the Ministry of Labour vide Notification No. L-14012(4)/85-D, II (S) dated 20th September, 1985 referred the following dispute, for adjudication :—

“Whether the action of the management of Gun Carriage Factory, Jabalpur (MP) in punishing the workman Sri R. P. Patel, Turner (C) by various orders of penalties dated 21-3-82, 24-6-83, 24-1-84 and 1-8-1984 for his trade union activities is justified? If not, to what relief the workman concerned is entitled?”

2. Parties have filed their respective pleading and documents. The position that emerges out from the admitted and proved documents appears to be that the G.C.F. Employees Union (hereinafter referred to as the Union) was established and registered in the year 1970. The following persons were the active members and office bearers of the Union (See Ex. W-1 filed in Ref. No. 111/85) :—

Shri Mahendra Baipai  
Shri Anantram Tiwari  
Shri S. C. Chowdhury  
Shri John Parer  
Shri Hamapati Yadav  
Shri Suresh Gangwar  
Shri Rajendra Jha  
Shri R. S. Tripathi  
1784 GI/86—4

Shri K. P. Sen  
Shri R. K. Jain  
Shri Surajma Singh  
Shri Ramlakhan Mishra  
Shri D. P. Upadhyay  
Shri Rameshwar Patel—Secretary  
Shri Ramsinghasan Sharma  
Shri Sant Lal  
Shri Tikaram Vishwakarma  
Shri Mohanlal Vishwakarma  
Shri Nada Swamy  
Shri Sidhuram  
Shri Kewal Kirishna  
Shri L. P. Tiwari  
Shri B. R. Tripathi  
Shri P. K. Chauhan  
Shri Dhaniram Patel  
Shri Rajendra Vishwakarma.

The workman, Shri R. P. Patel (Rameshwar Patel) was one of its active members and was Secretary of the Union.

3. Shri B. K. Ghai joined as the General Manager of the Gun Carriage Factory, Jabalpur (hereinafter referred to as the Factory) on or about 9th July, 1980 and somehow there developed a tussle between the active members of the Union and Shri B. K. Ghai. Union not only submitted Memorandum to the Defence Secretary but made some complaints also against Shri B. K. Ghai and resorted to hunger strike and notified of strike etc., brought out Hand Bills, Several news items against him. On the other hand, Shri B. K. Ghai in his capacity as General Manager of the Factory issued several charge-sheets against members of the union including Shri R. P. Patel. The following charges and punishments mentioned against each charge were imposed on Shri R. P. Patel :—

Date of Order	Offence	Penalty imposed.	Exhibits
1. 21-3-82	Unauthorisedly arranged an illegal procession.	One increment withheld for one year w/o c. c.	Ex. W/1 to W/5. C.c.
2. 24-6-83	Illegally and unauthorisedly arranged an illegal assembly of workers.	Stoppage of next one increment w/o c.e. for one year.	Ex. W/6 to W/12.
3. 24-1-84	Illegally and unauthorisedly arranged an illegal assembly of workers, shouted slogans against the management.	Stoppage of one increment w/o c.e. for one year.	Ex. W/13 to W/18.
4. 1-8-84	Unauthorisedly indulged in writing slogans on the Garden walls in front of Main Gate.	Stoppage of 3 increments w/o c. c. for 3 years, & recovery of Rs. 5,270/-	Ex. W/19 to W/26.

4. The case of the workman further is that a strike ballot was taken out on 11-8-81 on behalf of the union and 98% of the workers of the factory voted in favour of the strike. The management, therefore, came to the conclusion that their action was not proper and negotiated settlement on 13-8-81 settling the charter of demands of the Union and regarding the pending charge-sheets General Manager stated that domestic enquiry will be prolonged and neither party will gain thereby and therefore suggested and gave personal assurance that if the workmen give reply to show cause notice admitting the allegations he will not impose any punishment but will merely give an oral warning. Believing

the assurance and with a view to maintain good atmosphere and good industrial relation the workman gave reply to show cause notice as suggested by the General Manager.

5. Thus the punishment imposed on the workman is bad in law on the following grounds amongst others :—

1. Shri B. K. Ghai being the complainant and the witness could not have issued the charge-sheet and impose any punishment.
2. Punishment was imposed without holding an enquiry.
3. Punishment imposed is an act of victimisation and unfair labour practice.
4. He took into consideration various documents and statements produced behind the back of the workman and which were never made available to him.
5. The workman being illiterate and he was not supplied with the Hindi version of the charge-sheet or any of the letters. Thus he was deprived of an opportunity to defend himself.
6. The punishment imposed is against the principle of natural justice as well as against fundamental rights of trade union activities.
7. The punishment regarding the recovery of certain amount on account of alleged loss to the management is arbitrary and without any evidence.

6. The management's case is that Shri R. P. Patel was punished for gross misconduct in the past for which due enquiry was held and orders passed, on consideration of material evidence against him. The penalties imposed on him were fully merited. The same were just and are not liable to be questioned. He is not entitled to any relief asked for him. The management has further narrated regarding the four charge-sheets issued to the workman. Regarding the supply of Hindi version of the charge-sheets to the workman the management has contended that he was repeatedly advised to get them translated by his literate friend. But since he did not submit his representation the management presumed that the applicant Shri R. P. Patel was not interested to reply immediately and was adopting dilatory tactics. Therefore the penalty was imposed on him.

7. The enquiry papers have been relied on by the parties besides the applicant gave his own statement on affidavit and relied on certain documents filed in this case as well as in Ref. case No. 111/85 (Marked Ex. W-1 to Ex. W-39).

8. The main challenged to the show cause notice and the departmental punishment is that Shri B. K. Ghai was himself in the position of complainant and a witness. Therefore he could have neither issued the charge-sheet nor could have imposed the punishment awarded by him. I have gone through the record and I find that not only the defence documents Ex. W-1 to Ex. W-39 but documents of enquiry papers relied on by the management clearly go to show that this movement of the union members was directed against the General Manager, Shri B. K. Ghai and he was at least one of the aggrieved party and personally prejudiced against the active members of the Union.

9. On behalf of the management, it has been contended that active members of the union went beyond the legitimate activities of the union and they had absolutely no right to act in the manner as they did. Therefore they made themselves liable to the punishment awarded to them for their misconduct subversive of discipline as charge-sheeted. This may be true, but the law of natural justice requires that such activities of the union members of office bearers as are subversive of discipline amounting to misconduct has to be proved by legal evidence before a person could be punished. In the instant case, except the allegations in the charge-sheets there is nothing on record at least before this Tribunal to substantiate the allegations of the management. On the other hand, applicant workman has filed his own affidavit and he has been cross-examined but nothing is brought out to discredit his plea in relation to the charges levelled against him. If the management wanted to rebut the allegations of his affidavit it should have either filed the counter-affidavit of Shri B. K. Ghai or at least of some responsible officer

to refute or rebut the allegations but nothing has been done. I, therefore, see no reason to disbelieve the affidavit of the applicant workman. (Pratap Singh Vs. State of Punjab AIR 1964 SC 72 para 14 relied on).

10. The salient feature of the affidavit of Shri R. P. Patel are that he was a Secretary and active member of the Union. Shri Ghai started harrassing workers. Union therefore brought out hand bills, news items etc. against him and resorted to hunger strike etc. With a view to suppress union activities Shri B. K. Ghai issued false charge-sheet to active workers. But looking to the result of strike ballot he settled the charter of demands of the union and bluffed them to admit the charges. Documents and statements of the witnesses were collected at his back and these copies were not given to him.

11. In the case of Gujarat Steel Tubes Ltd. Vs. Mazdoor Sabha (AIR 1980 SC 1896) facts were on all fours with the facts of the present case. Relevant extracts of the above case are being reproduced below :—

"The form of the order of termination or the language in which it is couched is not conclusive. The court will lift the veil to see the true nature of the order....."

The Court will find out from other proceedings or documents connected with the formal order of termination what the true ground for the termination is.....

A disciplinary inquiry resulting in punishment of particular delinquents cannot but be illegal if the evidence is of mass misconduct by unspecified strikers led by leaders who are perhaps not even workmen.

The workmen were on strike. The strike was illegal. The management was hurt because production was paralysed. The strikers allegedly indulged in objectionable activities. The exasperated management hit back by ordering their discharge for reason set out in several pages in the appropriate contemporaneous proceedings. Misconduct after misconduct was flung on the workers to justify the drastic action.

Held.—The orders of discharge were bad on this score alone."

12. In view of the above, it is crystal clear that the action of the General Manager, Shri B. K. Ghai, against the active members of the union amounts to victimisation and unfair labour practice in all the charge-sheets given to the workman.

13. Now I will briefly take up some of the glaring impropriety, illegality in the charge-sheet and punishment awarded to the workman. Ex. W-1 and Ex. W-5 are the documents regarding the alleged misconduct dated 27-12-81. Statement of charge Ex. W-1 was given to the workman vide show cause notice Ex. W-1. On 28-1-82 the workman applied for Hindi version of the charge-sheet since he was illiterate but the management vide letter dated 16-2-82 (Ex. W-3) turned down his legitimate request and wrote to him that he can contact the Labour Officer, Time Keeper or any of his literate friend. To my mind the management ought to have given him the requisite Hindi version so the workman could defend himself. He again applied vide application dated 28-2-82 (Ex. W-4) for Hindi version and certain other documents but instead of supply him the same the punishment order Ex. W-5 dated 21-3-82 was passed.

14. The same attitude was also adopted in the alleged misconduct dated 15-2-83 (Ex. W-6 to Ex. W-12) dated 27-5-83 (Ex. W-13 to Ex. W-18), dated intervening night of 3rd/4th May 1984 (Ex. W-19 to Ex. W-26). Further more all these punishment orders Ex. W-5, Ex. W-12, Ex. W-18 and Ex. W-24 go to show that the management considered certain evidence which was taken behind his back without supplying him copy of the same though he demanded the same vide his application Ex. W-4, Ex. W-10, Ex. W-17 and Ex. W-23. Secondly the order does not disclose what was the prima facie evidence which was considered. The workman has also been given double punishments i.e. of stoppage of his

increment as well as the recovery of alleged monetary loss occasioned to the management. Even regarding this loss there is no such evidence to show how it was assessed and what was the evidence regarding it.

15. From all this attitude of the disciplinary authority it appears that Shri Ghai was highly prejudiced to the workman and went out of the way to victimise him. For such a contingency the Government framed instructions in C.C.S. (C.C.A.) Rules, 1965 on page 60 item No. 3(ii) which reads as follows :—

“(3) When Presidents power for nominating an adhoc disciplinary authority to be invoked

(i).....

(ii) When the competent authority is unable to function as the disciplinary authority—

In a case where the prescribed appointing or disciplinary authority is unable to function as the disciplinary authority in respect of an official, on account of his being personally concerned with the charges or being a material witness in support of the charges, the proper course for that authority is to refer such a case to Government in the normal manner for nomination of an adhoc disciplinary authority by a Presidential Order under the provisions of Rule 12(2) of C.C.S. (C.C.A.) Rules, 1965.”

Under this Rule Shri B. K. Ghai should have referred the matter to the Government for appointment of an adhoc disciplinary authority to conduct just, legal and impartial domestic enquiry against the workman but instead of doing so he himself became the prosecutor and judge at the same time. It is now well settled that no person could be a judge in his own cause and no witness could testify that his own testimony is true as has been held in the case of 1980-II-LLJ p. 270 P. J. Warkari Vs. K. V. Karamikar; 1986 SLR(i) 558 S. Tiwari Vs. State of M.P.; 1984 MPLJ 516. This is what has been done by Shri B. K. Ghai. Therefore the entire proceedings are vitiated being contrary to law and all the orders passed by the management are set aside.

15. In the instant case, the management in their written statement has not sought an opportunity to prove misconduct before this Tribunal. Therefore they are not entitled to the same.

16. Consequently I, hold that the action of the management of Gun Carriage Factory, Jabalpur (MP) in punishing the workman Sri R. P. Patel, Turner ‘C’ by various orders of penalties dated 21-3-82, 24-6-83, 24-1-84 and 1-8-84 for his trade union activities is not justified. He is, therefore, entitled to all increments withheld/stopped and Rs. 5,270 recovered vide four orders mentioned above. Management is directed to pay all his dues within three months from the date of this award. No order as to costs.

V. S. YADAV, Presiding Officer  
[No. L-14012/4/85-D.II (B) (Pt.)]

का.प्र. 920—औद्योगिक विवाद अधिनियम, 1947 (1947 का. 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार, इंडिया सिक्यूरिटी प्रेस के प्रबन्ध तंत्र से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच प्रमुख में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 1, बम्बई के पंचाट को प्रकाशित करते हैं, जो केन्द्रीय सरकार को 9 मार्च, 1987 को प्राप्त हुआ था।

S.O. 920.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 1 Bombay as shown in the Annexure in the industrial dispute between the employers in relation to the management of India Security Press and their workmen, which was received by the Central Government on the 9th March, 1987.

# BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I AT BOMBAY

Reference No. CGIT-23 of 1986

## PARTIES :

Employers in relation to M/s. India Security Press, Nasik.

AND

Their workmen.

## APPEARANCES :

For the workmen—Mr. Dharap, Advocate.

For the employer—Mrs. Katdare, Advocate.

INDUSTRY : Security Printing STATE : Maharashtra

Bombay, the 9th day of February, 1987

## AWARD

By the notification No. L-16012/1/85-D.II (B) dated 27th February, 1986, the following dispute was referred to the Presiding Officer of the Central Government Industrial Tribunal No. II, Dhanbad, by the Central Government in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947.

“Whether the action of the management of India Security Press, Nasik Road Maharashtra, in terminating the services of Shri Punit Kumar Singh, Office Peon vide Office Order No. Admn. 88/M dated 18-9-78 is justified and legal? If not, what relief the workman concerned is entitled to?”

2. By a subsequent order dated 1-5-1986, at the instance of the workman, the above dispute was transferred to this Tribunal.

3. The workman was appointed as an ‘Office Peon’ in the office of the India Security Press at Nasik Road with effect from 9th October, 1975, on probation for a period of two years. The appointment was purely on temporary basis and was liable for termination forthwith without assigning any reason under R. 5 of the Central Civil Services (Temporary Service) Rules, 1965. He was given the yearly increments which fell due on 9th October, 1976 and 9th October, 1977, but by office order dated 18th September, 1978, his service was terminated forthwith. He was paid a sum equivalent to the amount of his pay and allowance for a period of one month in lieu of notice. According to the workman, the termination of his service amounts to retrenchment within the meaning of S. 2(oo) of the Industrial Disputes Act, but it was effected without following the procedure prescribed in S. 25(F), 25(G) (25(N) of the Industrial Disputes Act, in as much as neither any notice was given to him, nor notice pay and retrenchment compensation was offered or paid to him. The principle of last-come-first-go was not followed and that the retrenchment was effected without obtaining the permission of the appropriate Government. According to him, seven other employees, who were junior to him in service were continued while his services were terminated. He also claimed that in view of the fact that two increments were given to him, he can not be treated as a temporary employee, and that he must be deemed to have become permanent. R. 5 of CCS (Temporary Service) Rules, therefore, was not applicable in his case.

4. It is not disputed by the employer that the provisions of S. 25(F) or S. 25(G) were not followed before terminating the service of the workman. Even though the workman was given pay and allowances equivalent to a period of one month in lieu of notice, no retrenchment compensation was either offered or paid to him. The position of fact stated by the workman in para 8 of his Statement of claim that seven other employees who were junior to him in service were retained in preference to him was also not denied. As a matter of fact, the employer has not stated anything about it in its written statement.

5. The case of the employer however is that the appointment of the workman was itself irregular because the workman was appointed on the ground that he belongs to the category of meritorious sportsmen deserving special consideration, without verifying that he actually satisfied the criteria laid down by the Government of India in Ministry of Home Affairs, Department of Personnel for treating him as a meritorious sportsman deserving special consideration for appointment in Government service. According to the employer, the workman manoeuvred in collusion with one of the officers of the India Security Press, who is no more in the service of the Press, to secure the employment. As the appointment was found to be irregular, the position was intimated to the Government and on the advice of the Government that immediate steps should be taken to terminate the services of the workman, action under Rule 5 of the CCS (Temporary Service) Rules was taken, as the workman continued to hold the post on temporary basis on probation.

6. Even assuming that the initial appointment of the workman was irregular in the sense that he did not satisfy the criteria laid down for appointment of meritorious sportsmen in Government service, there is nothing to show that the workman obtained this employment by manoeuvring in collusion with any officer of the management. Moreover, admittedly, the service of the workman was not terminated for the alleged misconduct. The order terminating the service of the workman is also completely silent about this aspect of the matter.

7. In the additional written statement filed on behalf of the employer, it is also made categorically clear that the termination of the workman's service was discharge simpliciter and the said action was in consonance with the terms and conditions of service and in strict compliance with the rules framed under R. 309 of the Constitution of India and without any stigma attached to it. It is now well settled that such termination also amounts to retrenchment within the meaning of S.2(oo) of the Industrial Disputes Act.

8. It was sought to be urged that as the workman continued to be on probation, it was not necessary to follow the procedure prescribed in S.25F of the Industrial Disputes Act. It is difficult to accept this submission for two reasons. Firstly because the termination was effected after the probation period was completed. As mentioned above, the workman was appointed w.e.f. 9th October, 1975 and his service was terminated by an order dated 18th September, 1978. The probation period came to an end on 9th October, 1977, and there is nothing on record to show that his probation period was extended. Not only that, but he was given two annual increments which fell due on 9th October, 1976 and 9th October, 1977. It must therefore, be held that at the end of the probation period, the workman became a permanent employee of the employer. Secondly, even assuming that he continued to be a probationer, his service could not have been terminated without following the procedure prescribed in S. 25-F. The Supreme Court has held in Karnataka State Road Transport Corporation, Bangalore Vs. M. Boraiah and another (AIR 1983 Supreme Court 1320) "as retrenchment as defined in Section 2(oo) covers every case of termination of service except those which have been embodied in the definition, discharge from employment or termination of service of a probationer would also amount to retrenchment. As such, where while discharging a probationer requirements of Section 25-F had not been complied with, the same was void." Clearly therefore, the termination of workman's service was void as admittedly, the procedure prescribed in S. 25-F was not followed.

9. The consequence therefore, is that the order of termination is ineffective and hence there was neither termination nor cessation of service. A declaration therefore, must follow that the workman concerned continues to be in service with all consequential benefits including full back wages and continuity of service.

10. As mentioned above, S. 25-G of the Industrial Disputes Act was also contravened. Section 25-N, however has no application because the number of workman employed by the employer in this case was less than 300 at the material time. In the result, it is declared that the termination of workman's service was illegal and ineffective and that he continued to be in service with all consequential benefits including full back wages.

11. The employer is, therefore, directed to allow the workman to rejoin his duties with continuity of service and pay him full back-wages from the date of termination till actual reinstatement.

12. Award accordingly.

M. S. JAMDAR, Presiding Officer

[No. L-16012/1/85-D.II (B)]

HARI SINGH, Desk Officer

नई दिल्ली, 25 मार्च, 1987

का. आ. 921--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबन्ततन्त्र से संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण अहमदाबाद के पंचाट की प्रकाशित करती है, जो केन्द्रीय सरकार को 11-3-87 को प्राप्त हुआ था।

New Delhi, the 25th March, 1987

S.O. 921.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the State Bank of India and their workmen, which was received by the Central Government on the 11th March, 1987.

BEFORE SHRI G. S. BAROT, PRESIDING OFFICER,  
CENTRAL INDUSTRIAL TRIBUNAL, AHMEDABAD

Reference (ITC) No. 6 of 1978

Management of State Bank of India, L.H.O., Bhadra, Ahmedabad.

AND

The workmen employed under it Shri B. N. Jha, C/o Mahagujarat Majur Parishad, Rajaram Havell, Vasant Chowk, Bhadra, Ahmedabad.

In the matter of termination of the services of Shri B. N. Jha.

APPEARANCES:

Shri R. M. Desai, Advocate with Shri Bhushan Oza, Advocate for the State Bank of India; and

Shri H. L. Rawal—for the workmen.

AWARD

The industrial dispute between the management of State Bank of India, L.H.O., Bhadra at Ahmedabad (in short the Bank) and their workmen represented by Mahagujarat Majur Parishad, Ahmedabad (in short 'the union') had been referred for adjudication to the Industrial Tribunal consisting of Shri R. C. Israni u/s. 10(1)(d) of the Industrial Disputes Act, 1947 by Government of India, Ministry of Labour, New Delhi vide its Order No. L-12012/139/77-D.II(A) dated 16-9-78 which has stood transferred to me by appropriate orders issued by the Government in this behalf. The single demand referred for adjudication is as under:

"Whether the action of the management of the State Bank of India, Local Head Office, Bhadra, Ahmedabad in terminating the services of Shri B. N. Jha with effect from 17-6-77 is justified? If not, to what relief is the workman entitled?"

2. In this case Shri H. L. Rawal for the workman, had earlier raised a preliminary point with regard to the legality of the inquiry. According to Shri Rawal, the inquiry held by the management was vitiated. The said preliminary point was contested by the parties and after hearing them an order below ex. 18 dt. 11-7-84 was passed wherein it was held that the domestic inquiry held by the management stood vitiated

for the reasons stated therein. However since the employer had filed an application ex. 22 praying that in the event, the Tribunal finds that the departmental inquiry held by the management was vitiated, the employer may be permitted to prove the charges against Shri Zha the workman concerned before this Tribunal. In the circumstances, the management was allowed to prove the charges against Shri Zha before the Tribunal and accordingly the management led evidence in support of its say. The workman also led evidence in defence.

3. The original charge sheet is at ex. 45. The Tribunal is now required to see whether the charges framed against Shri Zha have been proved or not? It would be relevant at this stage to reproduce the charges itemwise. The charges levelled against Shri Zha are as under :

- (i) "Drunkenness or riotous or disorderly or indecent behaviour on the premises of the Bank."
- (ii) "Doing an act prejudicial to the interests of the Bank, or gross negligence or negligence involving or likely to involve the Bank in serious loss."

2. The circumstances appearing against are as under :

- (i) On the 4th December, 1974, when Shri M. Z. Pathan, Messenger-cum-watchman was on duty at the branch, you accompanied by your son, came to the branch and assaulted Shri Pathan, as a result of which Shri Pathan sustained very serious injuries. You were not on duty and your presence, therefore, at the branch was unwarranted and uncalled for. You have also not given any satisfactory reason as to why you came to the branch with your son on that day.
- (ii) On the 5th December, 1974, you again called at the branch and you have not only used abusive language against the members of the staff but also threatened some of the staff members including Shri Pathan with physical violence. The staff members, therefore, lodged a police complaint against you and you were arrested by the police. However, you were released only after furnishing suitable bail and also your specific assurance to the police authorities to refrain from committing offences in future.
- (iii) On the 5th December, 1974, you along with some accomplices, threatened some members of the staff while they were on their way back home in the afternoon, with physical violence. Consequently the Bank had to arrange for police escort over a fairly long period to ward off closure of the branch. Your unbecoming conduct hampered the smooth running of the branch and also caused the Bank to incur unnecessary expenditure on the police escort."

3. Your above acts are acts amounting to drunkenness or riotous or disorderly or indecent behaviour on the premises of the Bank and acts prejudicial to the interest of the Bank, or gross negligence or negligence involving or likely to involve the Bank in serious loss, and you have thereby committed acts of gross misconduct."

4. As far as the charges viz., (1) drunkenness; and (2) negligence involving the bank in serious loss are concerned, the same have not been found to be proved even by the inquiry officer. Then the charges which remain to be considered are (a) riotous or disorderly or indecent behaviour on the premises of the bank; and (b) doing act prejudicial to the interest of the bank or gross negligence. It is however important to note that on 3-12-74 one incident had taken place during the night between Shri Zha and Pathan but there is no charge levelled against Shri Zha in this behalf nor any mention thereof has been found even though the incident in question appears to be the root cause of the incident on 4-12-74 followed by an incident of 5-12-74 for which the workman has been charge sheeted.

5. As stated above the domestic inquiry held was declared to be vitiated and the parties were allowed to lead evidence in support of their respective case. The management has in the

first place examined Shri Pathan who is alleged to have been beaten by Shri Zha at ex. 28. The management also examined four other witnesses in support of its case. They are: (1) Gaurav Saiyendra Mazumdar, the acting manager at the relevant time at ex. 29; (2) Shri Kusumkant Jankashanker Shukla, the manager at ex. 31; (3) Shri Nankanh Govind, a clerk at ex. 32; and (4) Shri Prakash Lakshmi Kande, a clerk at ex. 33. The concerned workman Shri Zha has examined himself at ex. 35.

6. Before I discuss and come to a conclusion whether the charges levelled against Shri Zha have been proved or not, it would be proper at this stage to consider the arguments advanced by the advocates of both the sides. Shri R. L. Rawal appearing on behalf of the workman concerned first of all assailed the charge on the ground of vagueness. Shri Rawal then strenuously argued that the charges if read as a whole reveal that they are quite vague in as much as there is no mention of time and proper names of the witnesses etc. Shri Rawal also tried to show that the evidence recorded before this Tribunal, if analysed, would show that the workman concerned has been victimized. In support of this contention Shri Rawal very meticulously pointed out some of the major contradictions in the statements made by the witnesses before various forums like the inquiry officer, the Executive Magistrate and the Tribunal. Shri Rawal then argued that the management has falsely implicated the workman concerned and that too because the management wanted to favour Shri Pathan for whom the management had a soft corner. Shri Rawal also argued that the incident during the night of 3-12-74 was a simple incident but systematic attempt has been made by the management to see that the said incident is given a very unpleasant form; Shri Rawal finally argued that if the evidence on record is considered and analysed properly, it cannot be said that any of the charges against Shri Zha is said to have been satisfactorily proved. Shri Rawal therefore submitted that the workman concerned, in the circumstances, be reinstated on his original post with continuity of service and full back wages.

6A. As against this, Shri Oza, the learned advocate appearing on behalf of the bank however tried to show that the workman concerned was a hot headed person who always used to pick up quarrels even on simple points. Shri Oza also argued that the charges levelled against Shri Zha have been amply proved and the same shows clearly that Shri Zha was a hot headed person and that he had also beaten Shri Pathan on the premises of the bank and that he had also threatened the staff with dire consequences with the result that the bank had to provide police protection to the staff and spend amount there on involving the bank in serious loss. It was therefore argued by Shri Oza that the reference be rejected.

6B. I have considered the rival contentions in the light of the evidence recorded before this Tribunal and in my opinion this is a case in which the incident on 4-12-74 and thereafter the root cause of the incident on 4-12-74 and thereafter 5-12-74. It is however surprising that the incident of 3-12-74 does not find any place in the charge sheet. At any rate the management has been allowed to lead evidence to prove the charges and considering the evidence it appears that the charges levelled against Shri Zha the workman concerned as they stand, are quite vague and also cannot be said to have been satisfactorily proved against Shri Zha. In my opinion, therefore, Shri Zha the workman concerned deserves to be reinstated on his original post with continuity of service and full back wages. My reasons for the above conclusions are as under:

7. If the deposition of Shri Pathan ex. 28 is considered it appears that he is a person with whom Shri Zha had some trouble the previous night i.e. 3-12-74 due to which the incident in question had taken place. Though the charge sheet does not mention anything about the said incident it has great relevance to the incident of 4-12-74 & 5-12-74. As it appears from the deposition of Shri Pathan he has stated that on 3-12-74 he was on duty between the period 6-0 p.m. to 2-0 a.m. the next day. The duty hours for watchmen were as under: 6-0 p.m. to 2-00 a.m.; 2-0 a.m. to 10-0 a.m. & 10-0 a.m. to 6-0 p.m. According to Shri Pathan there was one Mr. Jadav who was a badli watchman. On 3-12-74, according to this witness, he came for his duty and took over

the charge. Thereafter at 6-0 p.m. Shri Zha the workman concerned came and told him that he i.e. Shri Pathan should go away as it was not his duty that day. On that Shri Pathan told Shri Zha that if the acting manager Shri Mazamudar tells him to do so he would do accordingly. Thereafter he had seen Shri Mazamudar the acting manager who told him that as Zha was there, there was no use quarreling with Shri Zha and in order to see that there is no quarrel he should leave for home. He had therefore left for his home. The witness further states that Shri Mazamudar had told him that he should then go at about 2-0 a.m. that day for duty, if he gets the duty. He had therefore gone that day at 12-0 mid night. According to him when he reached, Shri Jadav, the badli watchman was there. But Shri Zha was not there. Shri Pathan then asked Shri Jadav to open the gate as he had come for duty, but Shri Jadav told him that Shri Zha had gone for tea and after Shri Zha comes he would open the gate and give the charge. He had therefore waited till 2-0 a.m. Shri Zha did not turn up. Then he requested Shri Jadav to hand over the charge to him but Shri Jadav had flatly refused to oblige him and further told him that Shri Zha would give him the charge. He has then left for his home. Shri Jadav had continued on duty that day even after 2-0 a.m. As far as this incident is concerned the say of Shri Zha the workman concerned is that on 3-12-74 his duty was between 6-0 p.m. to 2-0 a.m. that day. He had taken over the charge from Shri Pathan and started his duties at 6-0 p.m. The duty hours of Shri Pathan on that day were 10-0 a.m. to 6-0 p.m. There was no watchman during the same period. This is the timing of Shri Pathan every day. According to Shri Zha, Pathan had never performed duties of a watchman even as badli. The Witness clearly states that on 3-12-74 no watchman was absent. The witness has also stated that Shri Mazamudar the acting manager had not told him anything about the charge to be given to any one, viz., Shri Pathan that day during the night. Stating further the witness says that Shri Pathan had come at about 1-45 a.m. and told him that he had come for resuming duty. On that he i.e. Shri Zha told him i.e. Pathan that it was not his duty but according to the chart it is the Jadav's duty and therefore it was not possible for him to give him charge i.e. Pathan. On that Shri Pathan told Shri Zha that he has been sent by Shri Mazamudar and therefore Zha told him that he should bring a chit to this effect from Shri Mazamudar. At that point of time Shri Jadav arrived and Shri Zha therefore handed over the charge to Shri Jadav. While going home Shri Pathan told Shri Zha that he should see Shri Mazamudar the next day at 10-30 a.m. From the evidence of both Shri Pathan and Shri Zha it appears that the incident that took place on 4-12-74 between Shri Zha and Shri Pathan had roots in the incident of 3-12-74. It is surprising that the charge sheet no where mentions about this. Analysing the incident of 3-12-74 there appears two different versions one by Shri Pathan and the other by Shri Zha. It appears from the evidence that in this bank there were 3 permanent watchmen and one badli watchman; that the duty list of watchmen is prepared a week in advance so that each watchman knows when he has to report for duty. On the day of the incident viz., 3-12-74 Shri Pathan was on duty in the bank as a peon between 10-0 to 6-0 p.m. His name was not there in the duty list of watchmen—either permanent or badli. Yet he had gone for duty to work as a watchman and some alterations as stated above had taken place between Shri Zha and Shri Pathan. Ofcourse an allegation has been made by Shri Zha that Shri Pathan was working as a domestic servant unofficially at the residence of Shri Shukla who was the permanent branch manager of this Makarpura Branch and therefore the management had a soft corner for him and whenever opportunity was available Shri Pathan was obliged by the manager. This way though Shri Pathan was not a regular watchman there might have attempts of obliging him by giving him the duties as a watchman. On the date of the incident viz. 3-12-74 Shri Pathan had gone for duty as watchman but Shri Zha did not give him that chance. There is also the other story put forward by Shri Pathan that though it was the duty of Shri Zha between 6-0 p.m. to 2-0 a.m. Shri Zha was not on duty. Instead Shri Jadav was on duty meaning thereby that during the duty hours Shri Zha had gone out. Thereafter when Shri Pathan was waiting for Shri Zha to return at about 2-00, Shri Zha had turned up and though requested he had not given the charge. This incident appears to be the real root cause of the trouble which resulted in the incident of 4-12-74. As stated above though this is

an important incident which led to the another serious incident the next day it does not find any reference either in the charge sheet or any where else. From that it clearly gives an impression that the management has soft corner for Shri Pathan. It may be that Shri Pathan might be working as a domestic servant unofficially at the place of the manager. This is also supported by evidence on record especially the evidence led by the management which shows that though there is an incident of Mara-mari between Shri Zha and Shri Pathan and that Shri Zha had a fracture on his hand, Shri Zha was suspended and given a show cause notice. Shri Pathan was given none.

7. Coming now to the incident of 4-12-74 it has come in evidence that between 10-30 to 10-45 Shri Zha had come to the bank. When he came to the bank Shri Pathan was there and Shri Jadav and one Shri Sonwane a Zaduwalla was also there. The question which would now arise is that though it was not the duty hours of Shri Zha why he should have gone to the bank at all. The evidence to this effect which is clear in the deposition of Shri Zha is that the previous night when Shri Pathan left without getting any duty as a watchman, had told Shri Zha that he should see the acting manager Shri Mazamudar the next day in the bank at 10-30 a.m. Not only that it is the say of Shri Zha that in the morning of 4th some one had come to his place while he was in the latrine and informed his wife that Shri Zha should see the manager that day at 10-30 a.m. There is no evidence led by the bank to rebut this version. The fact is that Shri Zha had been to the bank on 4-12-74 at about 10-45 or so. Coming now to the incident which took place on that day it appears that when Shri Zha had come to the bank, Shri Pathan was there and Shri Jadav and Sonwane were also there. According to Shri Pathan when he reached the bank on 4-12-74 for duty safaiwala and Shri Jadav and Shri Zha were present. At that time Shri Jadav and Shri Zha were near the latrine. He had started his duty after taking over charge from Shri Jadav at 10-45. He had not inquired anything from Shri Zha as Shri Zha was displeased with him. According to this witness though he had taken over charge from Shri Jadav, Shri Jadav had not left. Shri Zha who was there had also not left but both of them were there only. When Shri Mazamudar the acting manager came to the bank Shri Zha was abusing him and threatening him to see if he went out. He further says that Shri Zha was abusing him. He also says that Mazmudar was not there at that time and therefore he had told Shri Zha that he should say whatever he had to say when Shri Mazamudar comes. On that Shri Zha had stated that as far as he i.e. Pathan and Shri Mazamudar are concerned he does not care "Tamarl ane tamara sahebanl ayese tyese". Shri Zha was also threatening him and asked him to go out. At that time Shri Zha had one Danda in his hand. When Shri Pathan was trying to go out Shri Zha had stated that as far as he i.e. Pathan and Shri Mazamudablow with that Danda. Shri Pathan had fallen down and at that time the said Danda was got pressed under Shri Pathan's leg. As Shri Zha could not took out the Danda he took out his belt and catching Shri Pathan with his colour had beaten him with the belt. Shri Pathan had then started shouting and Shri Zha had then ran away. While Shri Zha was running away he had slipped near the gate of the bank and at that time the staff and Shri Mazamudar had also come. When Shri Mazamudar reached the bank Shri Zha was near the gate while Shri Pathan was inside the bank. Shri Zha was continuously abusing even when Shri Mazamudar had come. Shri Mazamudar had then tried to calm down both of them and as far as Shri Pathan is concerned he was taken in the tiffin room while Shri Zha was near the gate where he had fallen down. Shri Pathan further states that after some time Zha's son had come along with two others and caught hold of him by the neck and tried to beat him. On that Shri Mazamudar had come and sent Shri Zha's son out. Thereafter Shri Mazamudar had sent both Shri Pathan and Shri Zha to the doctor for treatment. This is all what Pathan has to say about the incident of 4th. As far as the management is concerned it has examined Shri Mazamudar at ex. 29 who says that on the day of the incident he was working as acting manager. On that day when he entered the bank Pathan and Zha who were both watchman were lying at two different places shouting that they have been beaten by each other. Shri Zha at that time was sleeping on the so far which was kept for the customers while Shri Pathan was sitting on the stool in the officer's tiffin room. Shri Mazamudar had asked Shri Zha as to what had happened and Shri Zha had



told him that Pathan had beaten him i.e. Shri Zha. Mazamudar had then asked Pathan as to what had happened and Pathan told him that it was Zha who had beaten him i.e. Pathan. At that time some of the bank staff had also come. The witness clearly states that according to him Zha was injured and Pathan was also injured little. Thereafter this witness i.e. Shri Mazamudar tried to persuade both of them to go to the doctor but both refused. Zha was telling that he would go only after beating Pathan. The next witness is Shri Shukla, the permanent manager who has been examined at ex. 31. According to this witness on the date of the incident i.e. 4-12-74 he was at Savli for the bank's work. At about 2.00 p.m. he received message that an incident of mara-mari had taken place between Zha and Pathan and he had therefore come to the bank at 2.45 p.m. When he reached there Zha was sleeping on the sofa while Pathan was sitting in the tiffin room. When the witness reached there, the acting manager Mazamudar told him that he has been trying to persuade both the watchman to go to the doctor but they did not go. The witness further says that Zha was telling in angry mood that he would beat Pathan. Thereafter on persuasion by Shri Nikhil Parikh, the union leader, Zha had gone to the doctor. The witness says that he had not seen any blood or any sign of beating on the body of Shri Zha but Shri Zha was seen shouting that he was beaten by Shri Pathan. The witness Shukla also says that he had seen that Pathan was injured and there was also blood on his body. It is pertinent at this stage to note that for the first time this witness Shri Shukla states that it was Pathan who was blending and injured more. He further states that in the same breath that Pathan had walked to the rikshaw himself without any assistance. It is also important to note that the acting manager Shri Mazamudar as far as this incident is concerned says clearly that according to him it was Zha who was injured and as far as Pathan is concerned he was also injured a little. It is also to be kept in mind that the allegation that Pathan was also working as a domestic servant at Shri Shukla's place should not be lost sight of and the attitude of the management towards Shri Pathan as observed above appears to be one-sided in as much as no show cause notice was given to Shri Pathan though the incident of Mara-mari had taken place between Zha and Pathan. Shri Zha was suspended while nothing of that sort was meted out to Shri Pathan. This is also supported by the fact that though Pathan is not one of the permanent watchmen or even a badli watchman, the management was desirous to see that Shri Pathan gets work as watchman. As far as another witness Nilkanth Govind, ex. 32 is concerned he has to say something as regards the incident of 4th and he says that at about 10.45 that day when he went to the bank he had seen Zha lying on the sofa while Pathan sitting in the tiffin room. He also says that Zha was shouting that he was beaten by Shri Pathan. He has also stated that Zha was also abusing the staff. Except this, he has nothing to say about the incident of 4th. When asked in cross-examination he has admitted that he has not talked about this incident to any one higher up in the bank. He has also admitted that it is for the first time he talks about this in this Court. The last witness Shri Prakash Laxman Rande, ex. 33 states in his deposition that on 4th when he went to the bank for duty Zha was lying on the sofa while Pathan sitting in the tiffin room. He has further stated that Zha was abusing the staff and telling that he would still see that Shri Pathan is beaten by him. If we now look at the version of Shri Zha about this incident it appears that he was there in the bank though it was not his duty hours because the previous night he was asked by Shri Pathan to see the acting manager Shri Mazamudar the next day at 10.30 a.m. Moreover some one had also informed his wife at his place that he should go and see the manager in the bank at 10.30 a.m. Then his version is that when he went in the bank Shri Pathan was there. Shri Jadav and one Shri Sanmare, Zaduwalla were also there. He further says that on reaching the bank he had asked Jadav whether Shri Mazamudar had come. But Shri Jadav informed that Shri Mazamudar had not come. Thereafter Shri Jadav asked for bidi and matchbox which he gave to him. Then he inquired from Shri Jadav why he was called though there is not his duty. Pathan spoke in between and told that militariwalas are hopeless people and throw pieces of bidis round about which he had to clean. On that Shri Zha requested him to control himself when speaking and on that Pathan

got excited and beat him with the chair which he was cleaning. He was also beaten on his hand and the wrist due to which he had a fracture and he had also fallen down. After that Pathan had ran away in the bank. It is important to note here that Jadav is also a watchman working in the bank and though Shri Zha has stated in his deposition that Jadav was an eye-witness who had seen that Shri Pathan had beaten Shri Zha, the management has not examined Shri Jadav before this Tribunal. As far as the presence of Zha's son is concerned it is the say of Shri Pathan that the son of Zha had come with two others and had tried to beat him. The story is denied by Shri Zha who deposed that it was true that his son had come but he had come alone and that too only to inquire about Shri Zha. The son had come at about 12.30 p.m. After coming he was sitting with Shri Zha and was crying. According to Shri Zha his son was of about 14 years old while according to Shri Pathan he was of 21 or 22 years old. It appears from the deposition of Shri Zha that his son was about 14 years of age in as much as Shri Zha has given the month of his birth to be January, 1960. As far as the presence of Shri Zha's son is concerned the acting manager Shri Mazamudar has stated that Shri Zha's son had come to the bank at about 12 noon and had waited there for nearly 3 hours. He had seen this from the classes of his cabin. He also says that when he came he had rushed towards Shri Pathan but the staff had separated them. As far as the evidence in this respect is concerned it is not believable that the son who was 14 years of age had tried to rush alone towards Shri Pathan and dare to beat him. Moreover except the say of Shri Pathan nobody says that the son had come with two others. As far as the age of the son is concerned Shri Zha had given his month of birth to be January 1960 which shows that in the year 1974 he was about 14 years old. Even Shri Mazamudar has not supported the say that the son had come with two others. From this it clearly appears that Shri Pathan has tried to exaggerate the things which had happened and in my opinion the story that the son had rushed upon Shri Pathan to beat him does not inspire any confidence. Examining the totality of the evidence as far as the incident of 4-12-74 is concerned it appears that Shri Pathan has tried to exaggerate things with the help or connivance of the management to the hard facts of the incident in question. I do not thereby wish to say that Shri Zha is a simple man and has suffered without speaking a word or resisting the blows given by Shri Pathan. As observed earlier the incident of 4th had deep roots in the incident of 3rd night. But Shri Zha had fracture on his hand shows that Shri Zha was injured more. Of course Shri Pathan had tried to put up a story that Shri Zha had fallen down near the gate and had a fracture is not supported by any other evidence except Shri Pathan himself.

Now coming to the incident of 5th, Shri Mazamudar has deposed that Shri Zha had come with bandage of his hand on that day. He further says that the staff of the bank had given one complaint against Shri Zha to Shri Shukla but states further nothing as to what had happened to that complaint. He then says that on 5-12-74 Shri Zha was in the bank between 11 a.m. to 3.30 p.m. and was threatening the staff. As far as Shri Shukla is concerned he states in his deposition that he was not there in the bank on 5-12-74. When he came the next day, the staff members had given one application in writing against Shri Zha and asked for police protection. He also states that behaviour of Shri Zha was arrogant and Shri Zha used to insult him i.e. Shri Shukla even in the matters of duty hours. As far as the witness Nilkanth Govind, ex. 32 is concerned he has stated that on 5-12-74 one complaint was given by the staff to Shri Mazamudar. While oral complaint was given to Shri Shukla. The other witness Prakash Laxman Rande, ex. 33 says that Shri Zha had come to the bank on 5-12-74 but there was no talk between them. Thus as far as the management is concerned the important evidence in this behalf is of Shri Shukla who says that on 6th when he attended the bank the staff had given an application against Shri Zha in writing. As far as the behaviour of Shri Zha's concerned Shri Shukla has tried to put up forcefully that the behaviour of Shri Zha was not proper even in matter of duties of watchmen. It is important to note at this stage that this is the only witness who states so and this has to be viewed with caution when there is an allegation that he out and out tries to favour

Shri Pathan as Shri Pathan was his domestic servant unofficially. Shri Shukla was the branch manager and it is not believable that the branch manager would tolerate such insulting tone or insulting language in matters of office administration from a minor person like a watchman. It may be true that the staff might have given application against Shri Zha that he had threatened the staff and for that police protection was asked for which was provided to them and the bank had to suffer loss of expenses on that account. All these evidences had to be viewed the light of the above evidence which shows that the management is trying to play soft towards Shri Pathan and at times favourable to Shri Pathan. Now coming to the version of Shri Zha himself with respect to this incident it is his say that on 5-12-74 he had come to the bank at about 11-0 or 11-15 a.m. However, he had come to give a complaint about the incident of 4th the previous day. Of course he had come and complained to Shri Mazamdar who had told him after perusing the complaint that he should go to the police and the bank cannot do anything in the matter.

In this case 3 sets of evidences are on record—one is the set of statement before the inquiry officer; then there is evidence before the Executive Judicial Magistrate where the complaint against Shri Zha was filed and Shri Zha was acquitted by the said Magistrate and the third set is before this Tribunal wherein the bank was allowed to prove the charge levelled against Shri Zha and Zha to lead evidence in his defence. In such a state of affairs it is only the evidence before this Tribunal which becomes relevant for consideration to arrive at a conclusion whether the charges levelled against the workman concerned Shri Zha can be said to have been proved or not. As far as the evidence before the inquiry officer and the evidence before the Executive Magistrate is concerned it becomes relevant only for the purpose of contradiction. Considering the other evidence viz., before the inquiry officer and the Executive Magistrate it appears that there are major contradictions in the versions of the witnesses which are material to believe or disbelieve the witnesses. As far as the presence of Shri Zha's son is concerned and the allegation that he had also tried to beat Shri Pathan, the same is not at all believable. Even the story that several members of the staff were present when the incident took place is also vague. Though there is small staff no names have been given. It is also the say of the management that when the incident of 4th had taken place there were customers and during the course of inquiry proceedings one customer was examined. However, the bank has not produced the customer before the Tribunal. Thus, considering the three major charges viz., that the son of Shri Zha had come to assault Shri Pathan; (2) that though not on duty he had come on 4-12-74 with his son and quarreled with Shri Pathan and (3) lastly on 5-12-74 Shri Zha had come to the bank and given threats to the staff members as a result of which police protection was required do not appear to have been proved. There appears to be allegation without substance. In my opinion therefore if the totality of the evidence before the Tribunal is considered there appears to be discriminatory treatment meted out between Shri Pathan and Shri Zha and it clearly appears that as far as pathan is concerned the bank has tried to favour him as far as possible. The charges levelled against Shri Zha also appear to have been vague and in my opinion they cannot be said to have been proved so as to award the punishment of termination of service. In my opinion this is a very hard case where all this has taken place merely on the plea that Shri Zha is a hot headed person as he comes from military. It is true that in the past also for some reason Shri Zha's services were terminated but the Tribunal had ordered reinstatement and he was again taken on service. Merely because in the past such a thing had happened would not be taken for granted that the incident in question had taken place in the form in which it is tried to be shown and as stated above the management has failed to prove the charges as they have been levelled against Shri Zha. This is a case of 1974. In these hard days it is very difficult for a person like a watchman to pull on without any job. As far as the question of painful employment is concerned it has come in evidence that Shri Zha though tried has not been able to secure a good job. Whatever little he had done during this period is simply to earn the bare livelihood and maintaining his family with meagre means. I therefore do not think that this is a case where even his back wages should be limited to some fixed percentage. In my view this is a fit case where reinstatement with full back

wages should be ordered. In the circumstances stated above, the State Bank of India, the employer herein is hereby directed to reinstate Shri Zha on his original post with full back wages and continuity of service. It is also directed that the bank should reinstate Shri Zha within one month from the date of publication of this award and pay him the arrears becoming due to him also within the same period i.e. within one month of the publication of the award and pay Shri Zha Rs. 1,000 (Rs. One thousand only) by way of cost in view of the prolonged proceedings of this case.

Ahmedabad:  
Dt. 24-2-1986.

G.S. BAROT, Presiding Officer  
[No. L-12012/139/77-D. II(A)]

का० जा० 922 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, भारतीय स्टेट बैंक के प्रबंधतन्त्र से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निरिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण मद्रास, के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-3-87 को प्राप्त हुआ था।

S.O. 922.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the State Bank of India and their workmen, which was received by the Central Government on the 6th March, 1987.

#### ANNEXURE

BEFORE THIRU FYZEE MAHMOOD, B.Sc., B.L.,  
PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
TAMIL NADU, MADRAS

(Constituted by the Central Government)

Saturday, the 21st day of February, 1987

INDUSTRIAL DISPUTE NO. 6 OF 1982

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of State Bank of India, Madras-1).

#### BETWEEN

The workmen represented by the General Secretary,  
State Bank Employees Union, P.B. No. 1548,  
36/37 Angappa Naicken Street, Madras-1.

#### AND

The Chief General Manager, State Bank of India,  
L.N.O., 21, Rajaji Street, Madras-1.

#### REFERENCE:

Order No. L-12012/327/81-D.IIA, dated 29-1-1982 of the Ministry of Labour, Government of India, New Delhi.

This dispute coming on for final hearing on Tuesday, the 27th day of January, 1987 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiru N.G.R. Prasad for Thiruvallargal Row and Reddy and K. Chandru, Advocates appearing for the workman and of Thiru S. Jayaraman, Advocate for the Management, and this dispute having stood over till this day for consideration, this Tribunal made the following:

#### AWARD

This dispute between the workman and the Management of State Bank of India, Madras-1 arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. L-12012/327/



81 D.I.A., dated 29-1-1982 of the Ministry of Labour for adjudication of the following issue :

"Whether the action of the management of State Bank of India, Madras in discharging from service of Shri P. Jayapalan, Messenger, Chengam Branch under their letter dated 15-6-1978 is justified? If not, to what relief is the workman concerned entitled?"

(2) In the claim statement filed, it is submitted that the Petitioner Thiru P. Jayapalan was working as a Messenger in the Chengam Branch of the Respondent-Bank. On 1-6-1976, a charge sheet was issued to him alleging various acts of misconduct. The substance of the charge was that he had pledged his jewels using the name of another employee Thiru C. Kannan and obtained a gold loan for Rs. 1,800 and thereafter he altered the records and caused the closure of the account to avoid detection. It is stated that on 19-12-1975, the Vigilance Officer of the Respondent-Bank in the presence of the Branch Manager had threatened him with dire consequences and forced him to admit certain unfounded charges. On 26-6-1976, the Petitioner gave an explanation denying the charges levelled against him. Subsequently, an enquiry was conducted, in which the Branch Manager and the Head Cashier were examined. The Petitioner examined himself. A show cause notice was issued to him as to why he should not be discharged from service, to which he had submitted an explanation, and the Management had discharged him from service. Against the order of discharge, an appeal preferred by him was rejected. It is contended that the findings of the Enquiry Officer are perverse and not supported by evidence on record. The non-examination of the Vigilance Officer who had under compulsion obtained the confession statement from the Petitioner—Employee would vitiate the enquiry. The Enquiry Officer having found the fourth charge as not proved which relates to the destruction of the transaction sheet, should have also exonerated the Petitioner on the other three charges. At any rate, the punishment awarded is shockingly disproportionate to the gravity of the offences alleged. The Petitioner—workman and put in a number of years of service and in spite of his best efforts had not been able to secure any alternative employment. It is prayed that an award may be passed holding the discharge of the Petitioner as unjustified and directing reinstatement with full back wages and continuity of service and other attendant benefits.

(3) In the counter statement filed on behalf of the Respondent—Bank, the allegations made in the claim statement are denied. It is stated that the dispute had not been espoused by any recognised Union and so it cannot be entertained. A charge memo dated 1-6-1976 was issued to the workmen concerned stating the allegations of misconduct committed by him. As the explanation submitted by him was not satisfactory, a fair and proper enquiry was conducted wherein he was given full opportunity to defend himself. The Enquiry Officer gave his findings that the workman was guilty on the first three charges. The Punishing Authority concurred with the findings of the Enquiry Officer and after issuing a second show cause notice regarding the proposed punishment passed an order of discharging him from service with effect from 15-6-1978. The services of the workman were terminated for the proved misconduct. It is stated that the findings of the Enquiry Officer are just and proper. The Respondent-Bank is entitled to rely on the voluntary confessional statement made by the Petitioner—workman before the Vigilance Officer at that time of interrogation before the charge memo was issued to him. The allegation that the confessional statement was obtained under coercion is without any basis. The non-examination of the Vigilance Officer or the co-employee Thiru C. Kannan cannot vitiate the validity of the enquiry. There were sufficient materials on record for the Enquiry Officer for holding the charges as proved. The misconduct committed by the workman is a gross misconduct as mentioned in Para 521(4)(j) of the Sastry Award justifying the punishment of discharge imposed upon him. Hence the claim petition has to be dismissed as unsustainable in law.

(4) The point for consideration is as contained in the reference.

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(5) No oral evidence was adduced on either side. Exs. W-1 to W-14 were relied upon by the petitioner-workman and Exs. M-1 to M-24 marked on behalf of the Management-Bank.

(6) At the outset itself, it may be pertinent to point out that the Petitioner did not seriously challenge the validity of the domestic enquiry held against him on the ground of violation of the principles of natural justice or on any other legal ground. As a matter of fact, an endorsement was made by the learned counsel for the petitioner that the arguments shall be confined to the scope of Section 11-A of the Industrial Disputes Act. It is now well settled law that under Section 11-A, the Tribunal is at liberty to consider not only whether finding of the misconduct recorded by the employer is correct but also to satisfy itself one way or other regarding the misconduct committed, the punishment imposed and the relief to be granted to the concerned workman on the basis of the materials on record and re-appraisal of the evidence.

(7) The Petitioner Thiru P. Jayapalan was appointed as a Messenger at Chengam Branch on 2-12-1964. He continued in the said post until he was discharged from service with effect from 15-6-1978. It was alleged that the Petitioner had pledged his gold ornaments through a temporary employee by name Thiru C. Kannan and raised a loan of Rs. 1,800 in the name of part-time employee Thiru C. Kannan. He made a false credit of Rs. 1,500 in the Gold Loan Account and taking advantage of it remitted a sum of Rs. 652.64 and closed the loan account, thereby causing a loan of Rs. 50 to the Bank. The concerned loan ledger was also destroyed. These acts were revealed on the investigation report by the Vigilance Officer who had interrogated the Petitioner and secured a statement in writing from him virtually admitting his guilt. Subsequently, a charge memo dated 1-6-1976 marked as Ex. W-1 containing four specific charges of the alleged misconduct was issued to the Petitioner and his explanation was called for. The charges read as follows:

"(i) That on 29th July, 1974, you with a view to circumvent the Bank's instructions caused to be pledged, with our Chengam Branch gold ornament belonging to you through Shri C. Kannan, temporary employee at the branch and raised a gold loan in his name for Rs. 1,800 (Loan No. G. 10/780).

Your above action is prejudicial to the interests of the Bank and could be construed as an act of 'gross misconduct' in terms of paragraph 521(4)(j) of the Sastry Award read in conjunction with paragraph 18.28 of the Desai Award.

(ii) That, during September, 1975, you fraudulently caused an unauthorised credit of Rs. 1,500 to be afforded to the Gold Loan Account No. 10/780 referred to in charge No. 1.

Your above action being prejudicial to the interests of the Bank is an act of 'Gross misconduct' in terms of paragraph 521(4)(j) of the Sastry Award read in conjunction with paragraph 18.28 of the Desai Award.

(iii) That, on 16th October 1975, you caused the closure of the gold loan account No. 10/780 and arranged for redemption of the gold ornaments offered as security by remitting a sum of Rs. 652.64 as against the correct outstanding of Rs. 2152.64 in the account, by taking advantage of the spurious credit of Rs. 1,500 referred to in charge No. (ii). Your above action is highly prejudicial to the interests of the Bank and hence an act of 'gross misconduct' in terms of paragraph 521(4)(j) of the Sastry Award read in conjunction with paragraph 18.28 of the Desai Award.

(iv) That, with a view to avoid detection of the fraudulent acts perpetrated by you referred to in charges Nos. (i) to (iii) you had the transaction sheet of Gold Loan Account No. 10/780 in the relative demand loan ledger destroyed.

Your above action being prejudicial to the interests of the Bank could be construed as an act of 'gross misconduct' in terms of paragraph 521(4)(j) of the Sastry Award read in conjunction with paragraph 18.28 of the Desai Award."

As the explanation submitted was not found to be satisfactory, an enquiry was conducted, in which the Petitioner had fully participated. In the Enquiry, the Management had examined the Branch Manager and the Cashier of the concerned Branch and the Petitioner examined himself as a defence witness. He did not choose to examine any other witness though he was offered an opportunity to do so. As already adverted to, the validity of the domestic enquiry had not been assailed in the instant case. The only contentions put forward are that the findings of the Enquiry Officer are baseless and perverse and that in any even the punishment imposed is grossly disproportionate to the nature of misconduct committed.

(8) Ex. M-14 are the enquiry proceedings and Ex. M-15 the findings rendered by the Enquiry Officer. The Petitioner had given a statement to the Investigation Officer Thiru V. S. Krishnasamy at the stage of preliminary enquiry which was marked as Ex. M-1. In this statement, he had categorically admitted that as he could not secure a loan of more than Rs. 300 he had used Thiru C. Kannan's name and pledged his jewels weighing 8 sovereigns with the Bank. The account in Kannan's name G. 10/780 was opened on 29-7-1974. He had admitted that on 16-10-1975 he had by remitting a lesser amount of Rs. 652.64 redeemed the jewels and closed the account. The Management had asked him to make good the outstanding amount of Rs. 1500 on this loan which was actually paid by him on 19-12-1975. It was further recited in Ex. M-1 that it was a voluntary statement given by him and expressing regret for his past conduct and assuring he would not repeat such act in future. The statement had been accepted by the Enquiry Officer. The argument put forward on behalf of the Petitioner that the statement should not have been relied upon as neither the concerned Investigation Officer nor Thiru G. Kannan were examined in the enquiry is untenable. In this voluntary statement given by him he had virtually admitted the gist of the charges levelled against him excepting the fourth charge regarding the destruction of the ledger relating to gold loan account which he had denied and on which the Enquiry Officer had exonerated him. It cannot be said that merely because the concerned Investigation Officer who recorded the statement or Thiru C. Kannan were not examined, the Petitioner had been prejudiced in his defence. As already adverted to the validity of the enquiry had not been challenged on the ground of violation of any principle of natural justice or not being afforded an opportunity to defend himself. The Petitioner had examined himself in the domestic enquiry and had not chosen to examine any other defence witnesses. Nothing precluded him from summoning Thiru C. Kannan who was a part-time employee of the Bank as a defence witness. I find no reason to doubt the genuineness of the statement Ex. M-1 dated 19-12-1975 made by the Petitioner to the Investigation Officer at the stage of preliminary enquiry and long before the issue of the charge memo Ex. W-1 dated 1-6-1976. In this context it may also be relevant to refer to the statement of Thiru C. Kannan dated 19-12-1975 to the Investigation Officer marked Ex. M-3. In this statement, it has been categorically stated that the jewel had been redeemed on 16-10-1975 and that Rs. 1,500 due against the outstanding to the Bank towards this loan was being paid. The Petitioner had also signed in the said statement after mentioning that the loan had been taken by Thiru C. Kannan as instructed by him and he had paid the amount. Ex. M-5 is the voucher for the payment of Rs. 1,500 on 19-12-1975. It had been signed by the Petitioner and Thiru C. Kannan. The Petitioner had evidently resorted to the dubious method of securing the loan in the name of Thiru C. Kannan a part-time employee showing as a member of the public as staff members are not entitled to jewel loan exceeding Rs. 300 as disclosed by Ex. M-4. On 16-10-1975, a sum of Rs. 652.64 had been credited to the Loan Account No. 10/780 in respect of the jewel concerned in the name of Thiru C. Kannan as revealed by Ex. M-7, and the jewels were redeemed, even though there was an outstanding of nearly Rs. 1,500 due to the Bank. This was evidently done by making a false entry of

Rs. 1500 in the Day Book to which the Branch Manager had unwittingly initialled. Ex. M-9 is the extract of the ledger relating to the gold loans and in the Account No. 10/780 which relates to the instant case, an amount of Rs. 2100.64 is shown as due. Similarly in Ex. M-10, an extract of the ledger dated 24-9-1975, an amount of Rs. 2100.64 is shown as due. Similarly in Ex. M-10, an Rs. 2100.64 is stated to be due on the gold loan advance for the jewels pledged under No. 10/780. Ex. M-6 shows that an interest of Rs. 52 had accrued on this loan and the total amount on credit was Rs. 2152.64. It is only subsequently, on 16-10-1975 that by remitting a lesser amount of Rs. 652.64 in the name of Thiru C. Kannan the Petitioner had redeemed the jewels and treated the account as closed. In this connection, it may be pointed out that as per Demand Loan Ledger dated 29-10-1975 marked as Ex. M-12 there was no entry in respect of Account No. 10/780 thereby establishing that the account had been closed. The oral and documentary evidence adduced in the enquiry clearly establishes the 1st three charges levelled against the Petitioner. The fact that the jewels belonged to the Petitioner and that he had pledged them in Thiru C. Kannan's name and secured a loan and thereafter redeemed them by paying a lesser amount towards the outstanding due and subsequently after interrogation by the Investigation Officer paid the amount for Rs. 1500 are all matters of record and clearly established by the evidence on record. It is interesting to note that the Petitioner was examined as D.W.1 in the enquiry wherein he had stated as follows :

"I have no connection with the incident. One day the Branch Manager called me, Shri Nawaz and Shri Rajendran and said that a sheet from Gold Loan Ledger No. 24 is missing please search for it. We all searched and said that it is not found. Two or three days later the Branch Manager said that something wrong has taken place in the branch, if you, Kannan and Krishnan can give statements on lines I suggest, things could be set right. I asked Mr. Krishnan about this and he said that such things are not possible with me. Then I asked Mr. Kannan, he said that he would do so directed by the higher officials. A few days later the Vigilance Officer arrived from Madras. The Branch Manager and Head Cashier took me up the stairs and said that I should give the statement as directed by them before the Vigilance Officer. I told them I cannot understand anything. They showed me a statement already signed by Mr. Kannan. The Head Cashier put his arms across and made a gesture indicating that I would be arrested if I do not give the statement as indicated by them. In the presence of the V.O. I wrote down what was directed to me by the Branch Manager, out of fear I did not know what I was writing. Then I was taken to the Head Cashier's room where I was asked to sign a voucher that was already signed by Mr. Kannan. I did not remit any cash."

On a perusal of this statement, it is sufficient to conclude that the Petitioner was adopting an attitude of a person more sinned against than sinning and trying to wriggle out of the situation by denying any connection with the incident and that the confessional statement secured from him marked as Ex. M-1 by the Vigilance Officer was one made under coercion. I have no hesitation in discarding the artificial testimony given by the Petitioner before the Enquiry Officer to cover up his guilt. The Enquiry Officer had come to the correct conclusion in holding that the 1st three charges stood proved against the Petitioner. The oral and documentary evidence adduced is cogent and convincing and clearly establishes the charges held proved. The Punishing Authority after giving a notice of proposed punishment had by its order dated 15-7-1978 marked as Ex. W-8 discharged the Petitioner from the Bank's service by way of punishment for the misconduct committed, accepting the findings rendered by the Enquiry Officer.

(9) The only question that remains for consideration is whether the punishment imposed is justified or whether it can be considered as harsh and excessive. As rightly urged on behalf of the Management, the charges levelled against the Petitioner are of a serious nature and he had been found guilty of trying to defraud the Bank though subsequently he

had made good the amount of Rs. 1500. This has been done only after the Vigilance Officer had secured the confessional statement from him marked as Ex. M-1. In the circumstances of the case, the Petitioner cannot justifiably seek the relief of reinstatement as the Management would have lost the confidence reposed in him for having committed a serious misconduct prejudicial to the interests of the Bank. It is urged on behalf of the Petitioner that he had put in nearly 14 years of unblemished service before he was discharged and has 23 years of service left and therefore a compassionate view may be taken and the order of discharge set aside. The fact that the Petitioner had an unblemished record of service for nearly 14 years is not controverted. As a matter of fact, the order of discharge Ex. W-8 does not refer to past record of service of the Petitioner. Under Para 521(10)(c) of the Sastry Award in awarding punishment, the disciplinary authority shall take into account the gravity of the misconduct, the previous record, if any, of the employee and any other aggravating or extenuating circumstances that may exist. The fact that in Ex. W-8 the Punishing Authority had not referred to the past record of service only fortifies the contention put forward by the Petitioner that he had an unblemished record of service. Taking the totality of the circumstances into account the order of discharge passed in my view is rather harsh and excessive and disproportionate to the nature of misconduct committed. Even before levelling of the charge memo Ex. W-1, the Petitioner had virtually made a confessional statement of his guilt and made good the amount of Rs. 1500 due to the Bank. As already adverted his conduct does not justify reinstatement, but this would be a fit case where the order of discharge be set aside and the Petitioner granted compensation in lieu of reinstatement. The Petitioner was last drawing a salary of Rs. 800 per month and had about 23 years of service left at the time of discharge and had not secured any alternative employment.

(10) In the circumstances, the order of discharge passed according to Ex. W-8 is set aside and the Respondent Bank is directed to pay compensation in lieu of reinstatement amounting to Rs. 50,000. The Petitioner would be entitled to the other terminal benefits which are legally due to him, but not to any other relief. An award is passed accordingly. There will be no order as to costs.

Dated, this 21st day of February, 1987.

Sd/-

FYZEE MAHMOOD, Industrial Tribunal

WITNESSES EXAMINED

For both sides : None.

DOCUMENTS MARKED

For workman

- Ex. W-1/1-6-76—Charge sheet issued to Thiru P. Jayapalan, Petitioner.
- Ex. W-2/26-6-76—Copy of explanation by the Petitioner with postal acknowledgment.
- Ex. W-3/26-7-76—Enquiry notice.
- Ex. W-4/30-1-78—Notification issued by the Management regarding change of Enquiry Officer.
- Ex. W-5/7-4-78—True copy of defence statement submitted by the Petitioner before the Enquiry Officer.
- Ex. W-6/3-5-78—Show cause notice given to the Petitioner.
- Ex. W-7/25-5-78—True copy of reply to Ex. W-6 by the Petitioner.
- Ex. W-8/15-6-78—Discharge order issued to the Petitioner by the Management.
- Ex. W-9/1-8-78—True copy of appeal preferred by the Petitioner to the Chief General Manager (Appellate Authority).
- Ex. W-10/19-5-79—Letter from the Management along with Appellate Order.

- Ex. W-11/30-3-79—Copy of petition submitted by the Petitioner to the Chief General Manager, Local Head Office, Madras-1.
- Ex. W-12/19-5-79—Reply to Ex. W-11 by the Management.
- Ex. W-13/9-8-79—Copy of letter from the Union to the Regional Labour Commissioner (Central), Madras-6.
- Ex. W-14/23-5-80—Copy of Union's letter to the Conciliation Officer in reply to Management's (letter), dated 13-11-1979.

For Management

- Ex. M-1/19-12-75—Letter from the Petitioner P. Jayapalan to the Management.
- Ex. M-2/20-12-75—Letter from K. R. Gopalan, Head Cashier of Chengam Branch to the Investigating Officer.
- Ex. M-3/19-12-75—Letter from C. Kannan to the Branch Manager of State Bank of India, Chengam.
- Ex. M-4—True copy of circular regarding advances against Gold Ornaments Circular A 56.
- Ex. M-5/19-12-75—Credit voucher of Rs. 1500 GL 10/780.
- Ex. M-6/16-10-85—Debit demand loan particulars of Chengam Branch
- Ex. M-7/16-10-75—Demand loan particulars of 24/238.
- Ex. M-8—Demand Loan Account—Summations and Balance as on 27-8-75.
- Ex. M-9/27-8-75—Extract of Ledger Page 24.
- Ex. M-10/24-9-75—P & T Debit Scroll—Demand Loan Ledger Page No. 24 extract.
- Ex. M-11/29-10-75—P & T Debit Scroll extract.
- Ex. M-12/29-10-75—Demand Loan Ledger No. 24—Balance as on 29-10-75. (Extract).
- Ex. M-13/28-11-75—P & T Debit Scroll (Page 100) extract and Gold Loan particulars as on 28-11-75. (extract of page 24).
- Ex. M-14/28-2-78—True copy of Enquiry Proceedings.
- Ex. M-15—True copy of Enquiry Findings.
- Ex. M-16/13-11-79—Copy of Letter from the Personnel Manager to the Regional Labour Commissioner, Madras-6.
- Ex. M-17/8-12-80—Conciliation failure report (copy) of the Regional Labour Commissioner, Madras-6.
- Ex. M-18/9-12-75—Letter from T. S. Venkataraman, Branch Manager to Thiru R. H. Thomas, Regional Manager, Region-I, State Bank of India, Madras-1. (copy).
- Ex. M-19/20-12-75—Letter from Thiru T. S. Venkataraman, Branch Manager to the Regional Manager, Region-I, State Bank of India, Madras-1.
- Ex. M-20/9-1-75—Copy of letter from the Branch Manager of State Bank of India, Changam to the Regional Manager.
- Ex. M-21/19-12-75—English translation of the Tamil version of letter of P. Jayapalan addressed to the Enquiry Officer.
- Ex. M-22/19-12-75—English translation of letter of C. Kannan.
- Ex. M-23/19-12-75—True copy of letter from C. Kannan to the Branch Manager, Chengam Branch.
- Ex. M-24/20-12-75—True copy of letter from K. R. Gopalan to the Investigating Officer, State Bank of India, Camp Chengam.

FYZEE MAHMOOD, Industrial Tribunal

[No. L-12012/327/80-D-II(A)]

का. आ. 923 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के अनुसूच 17 के अनुसरण में, केन्द्रीय सरकार, आलहाबाद बैंक के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट की प्रकाशित करती है, जो केन्द्रीय सरकार को 9-3-87 को प्राप्त हुआ था।

S.O. 923.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the Allahabad Bank and their workmen, which was received by the Central Government on the 9th March, 1987.

BEFORE SHRI R. B. SRIVASTAVA PRESIDING OFFICER  
CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM  
LABOUR COURT, KANPUR

Industrial Dispute No. 115/86

In the matter of dispute between :

Shri Narottam Das C/o O. P. Nigam, 295/287, Dindayal Road, Asrafabad, Lucknow.

AND

The Regional Manager,  
Allahabad Bank, Hazratganj, Lucknow.

AWARD

The Central Government Ministry of Labour vide its notification No. L-12012/289/85-D.II(A) dated 25-8-86 has referred the following dispute for adjudication on this tribunal :

"Whether the action of the management of Allahabad Bank in terminating the services of Shri Narottam Das, Temp. peon, B.O. Bharaich with effect from 26-1-80 was justified ? If not, to what relief the concerned workman is entitled?"

2. Workman submitted his statement of claim and at later stage parties submitted settlement verified the same before the court and requested for giving award in terms of the settlement.

3. The case was ordered to be decided in terms of settlement.

4. In consequence of the settlement filed and verified before court award is hereby given in terms of settlement as under:—

TERMS OF SETTLEMENT :

1. It is agreed that the workman concerned Sri Narottam Das will be absorbed afresh with prospective date hereafter in the permanent cadre of peon-cum-farrash.
2. It is further agreed that the workman concerned said Sri Narottam Das voluntarily relinquishes his claim of back wages and benefits whatsoever.
3. It is further agreed that Sri Narottam Das will be absorbed as aforesaid within a month of this settlement.
4. Thus this fully and finally resolves the entire matter of dispute under reference.

I, therefore give my settlement award accordingly.

Let six copies be sent to the Govt. for its publication.

4-2-87

R. B. SRIVASTAVA, Presiding Officer  
[No. L-12012/289/85-D.II(A)]

का. आ. 924 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के अनुसूच 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक आफ इंडिया के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट की प्रकाशित करती है, जो केन्द्रीय सरकार को 10-3-87 को प्राप्त हुआ था।

S.O. 924.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the Union Bank of India and their workmen, which was received by the Central Government on the 10th March, 1987.

BEFORE SHRI R. B. SRIVASTAVA, PRESIDING OFFICER  
CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM  
LABOUR COURT, KANPUR

Industrial Dispute No. 44/86

In the matter of dispute between :

Shri O. P. Verma C/o The General Secretary, Union Bank Employees' Union (U.P.) 26/11-A, Patkapur, Kanpur.

AND

The Asstt. General Manager, Union Bank of India, Hotel Clerk's Avadh, 8, Mahatma Gandhi Marg, P.B. No. 305, Lucknow.

AWARD

The Central Government Ministry of Labour vide its notification No. L-12011/39/85-D.II (A) dated 26-2-86 has referred the following dispute for adjudication on this tribunal:

"Whether the action of the management of Union Bank Of India in not promoting Shri O. P. Verma Senior Clerk, to the post of Head Cashier Category 'C' from September '84 is justified ? If not, to what relief the concerned workman is entitled ?"

2. None appeared for the workman to file affidavit evidence.

ORDER

The case is decided against the workman for non prosecution. Let no claim award be sent to the Government.

R. B. SRIVASTAVA, Presiding Officer  
[No. L-12011/39/85-D.II(A)]  
N. K. VERMA, Desk Officer

ईद दिवसी, 27 मार्च, 1987

का. आ. 925 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के अनुसूच 17 के अनुसरण में केन्द्रीय सरकार, ई.जे.सी. कोलियरी आफ वेस्टर्न कोल फील्ड्स लिमिटेड के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट की प्रकाशित करती है, जो केन्द्रीय सरकार को 10-3-87 को प्राप्त हुआ था।

New Delhi, the 27th March, 1987

S.O. 925.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of E.D.C. Colliery of Western Coalfields Limited and their workmen, which was received by the Central Government on the 10th March, 1987.

## ANNEXURE

BEFORE SHRI V. S. YADAV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(105)/1985

## PARTIES :

Employers in relation to the management of E.D.C. Colliery of Western Coalfields Ltd. Pench Area, P.O. Parasia, Distt. Chhindwara (MP) and their workman S/Shri Shival Electrical Fitter and Category IV Shri Bhaurao F.R. Mistry represented through the R.K.K.M.S. (INTUC) P.O. Chandametta, Distt. Chhindwara (M.P.)

## APPEARANCES :

For Union—Shri S. K. Rao, Advocate.

For Management—Shri P. S. Nair, Advocate.

INDUSTRY : Coal Mining DISTRICT : Chhindwara (M.P.)

## AWARD

Dated, the February 20, 1987

By Government Notification No. L-22012(26)/85-D. V dated 22nd November, 1985 the Central Government referred the following dispute, for adjudication :—

"Whether the action of the management of E.D.C. Colliery of Western Coalfields Limited, Pench Area in not giving category V to Shri Shival, Electrical Fitter, and Category IV to Shri Bhaurao, F.R. Mistry is justified? If not, to what relief the workmen are entitled?"

2. Parties filed their pleadings but before date for evidence of parties could be fixed Counsel for management, Shri P. S. Nair, stated on 2-9-1986 that the parties are negotiating for a mutual settlement and ultimately a Memorandum of Settlement dated 2-9-1986 was filed on 23-10-86 duly signed by Shri Shyam Lal Valmiki, Shri Radhe Shyam Singh Union representatives and S/Shri Shival and Bhaurao workmen concerned and S/Shri S. M. Singh and C. L. Jaiswal on behalf of the management. The terms of Settlement as incorporated in the Memorandum of Settlement are as under :—

1. It is agreed by the management that S/Shri Shival Electric Fitter helper and Bhaurao F.R. Mistry of East Donger Chickli shall be placed in Cat. IV of NCWA-III in the scale of Rs. 24. 10-0.50-35.30 with effect from 1-9-1986 as fitter and carpenter respectively.
2. The Union agreed to give up all other claim/benefits and accept the above terms as full and final settlement and shall not claim any other benefit in respect of the matter in dispute.
3. This settlement shall not be treated as a precedent in any other case.
4. The parties agree to file the compromise settlement before the Presiding Officer, CGIT Jabalpur and request for an Award in terms of the settlement.
3. I have perused the above terms of settlement and am of the opinion that they are fair, just, reasonable and in the interest of the workmen concerned. I, therefore, give my award in terms of the settlement mutually arrived at between the parties. No order as to costs.

V. S. YADAV, Presiding Officer

[No. L-22012/26/85-D.V]

को.दा. 9/16.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार, नार्थ चामडेट्टा कोलियरी प्राक डक्यूम एन के प्रबन्धन से सम्बद्ध विवादों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रतिकरण, जबलपुर के पंचाट को प्रकाशित करत है, जो केन्द्रीय सरकार को 11-3-87 को प्राप्त हुआ था।

New Delhi, the 26th March, 1987

S.O. 926.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of North Chandametta Colliery of W.C.L. and their workmen, which was received by the Central Government on the 11th March, 1987.

## ANNEXURE

BEFORE SHRI V. S. YADAV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(88)/1986

## PARTIES :

Employers in relation to the management of North Chandametta Colliery, P.O. Chandametta, District Chhindwara (M.P.) and their workman, Shri Mangal, On-Setter, represented by Bhartiya Koyla Khadan Mazdoor Sangh (BMS), P.O. Chandametta, Distt. Chhindwara (M.P.)

## APPEARANCES :

For Workman—None.

For Management—Shri Rajendra Menon, Advocate.

INDUSTRY : Coal Mining. DISTRICT : Chhindwara (M.P.)

## AWARD

Dated, February 18, 1987

This is a reference made by the Central Government in the Ministry of Labour vide Notification No. L-22012/86/85-D.V. Dated 23rd October, 1986, for adjudication of the following dispute :—

"Whether the action of the management of North Chandametta Colliery of W.C. Ltd., P.O. Parasia Distt. Chhindwara (M.P.) in dismissing Shri Mangal, On-Setter from service with effect from 24-10-1983 is justified? If not, what relief the workman is entitled to?"

2. On receipt of the reference order parties were directed to file their statements of claim on 29-12-1986. But since no statement of claim was received by either side another date i.e. 16-2-87 was fixed for filing the written statement. On 16-2-1987 Counsel for Management, Shri Rajendra Menon, appeared and filed an application dated 16-2-1987 along with a Memorandum of Settlement dated 29-7-1986 duly signed by Shri Sheo Baran Singh and Shri Mangal and on behalf of the management by Shri S. M. Singh and Shri C. L. Jaiswal. The Management has prayed that since the matter has already been settled by the Memorandum of Settlement an award may kindly be passed accordingly. The terms of the settlement as incorporated in the Memorandum of Settlement dated 29-7-1986 are as under :—

1. It is agreed by the management that Shri Mangal will be re-employed on the wages, he was getting prior to his dismissal with the consequential fitment under NCWA-III, in the same capacity or any other job as per the requirement.
2. Since he was dismissed on the basis of proved misconduct the period of non-employment from 24th

October, 1983 to the date of his joining will be treated as Dies-non with the continuity for the purpose of Gratuity and seniority only provided he maintains good conduct for the period of one year from the date of resumption of his duties.

3. He will report for duty to the General Manager, Wardha Valley Area within a month from the date of signing the settlement.
4. The Union agrees to give up all other claim/benefits and accept the above terms as full and final settlement and shall not claim any other benefit in respect of the matter in dispute.
5. This settlement shall not be treated as a precedent in any other case.

3. I have perused the terms of the settlement and am of the opinion that the terms of settlement are fair, just and in the interest of the workman/union. Therefore I record my award in terms of the settlement mentioned above. No order as to costs.

V. S. YADAV, Presiding Officer.

[No. L-22012/86/85-DV]

का. प्र. 927.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, तेल और प्राकृतिक गैस आयोग, मेहसाना प्रोजेक्ट के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण, अहमदाबाद के पंचाट को प्रस्थान करती है, जो केन्द्रीय सरकार को 10-3-87 को प्राप्त हुआ था।

S.O. 927.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Oil and Natural Gas Commission, Mehsana Project and their workmen, which was received by the Central Government on the 10th March, 1987.

#### ANNEXURE

BEFORE SHRI G. S. BAROT, PRESIDING OFFICER,  
INDUSTRIAL TRIBUNAL (CENTRAL) AT  
AHMEDABAD

Reference (TIC) No. 16 of 1982

Adjudication

BETWEEN

Oil and Natural Gas Commission, Mehsana Project.

AND

The workmen employed under it.

In the matter of termination of the services of Smt. Nathiben Kalidas Solanki.

#### APPEARANCES:

Shri B. B. Vakil, Advocate for the Commission.

Shri T. R. Mishra, President of Gujarat Mazdoor Panchayat, Ahmedabad for the workmen.

#### AWARD

This industrial dispute between Oil and Natural Gas Commission, Mehsana Project and the workmen employed under it has been referred to me for adjudication as a Presiding Officer under Section 10 of the Industrial Disputes Act, 1947, by the Under Secretary to Government of India, Ministry of Labour Department's No. L-30011(1)/82-D.III(B) dated 17th June, 1982.

2. The dispute relates to a single demand which is as under:—

‘Whether the action of the management of Oil and Natural Gas Commission, Mehsana Project in terminating the services of Smt. Nathiben Kalidas Solanki in the year 1980 was justified. If not, to what relief is the workman entitled?’

3. The case of the workman as put up by her in her statement of claim Ex. 2 is that she was recruited in the services of the Oil and Natural Gas Commission (in short ‘the Commission’) in the year 1969 and was working in the different fields of the Commission where the construction of wells and drilling operation of the oil well was carried on till 1st February, 1980 when her services were arbitrarily terminated. That at the time of her recruitment she was paid Rs. 2.50 per day. The Commission was giving increment as a result of which at the time of termination of her services she was paid a sum of Rs. 9.15 per day as wages but was not given any other benefits like Provident Fund, Leave, Privilege Leave, Casual Leave and other perks and perquisites which were being granted to the permanent employees of the Commission. The grievance of the workman is that her services were terminated with a view to victimise her as she had approached the Union officials for grant of time-scale and various facilities like leave, provident fund, etc. and the union officials had discussions and negotiations with the Deputy Manager of Mehsana Project. This was the cause and reason for annoyance on the part of the Commission. That her work and conduct during the period of her service were quite satisfactory and she was never issued any memorandum or warning and there was no cause or any complaint with regard to her work. That she was permanent employee of the Commission having worked from 1969 to 1980 and the Commission had no right to terminate her services in arbitrary and capricious manner without following legal procedure in violation of principles of natural justice. That the action of the Commission in terminating her services is in violation of mandatory provisions of Section 25F, G & H of the Industrial Disputes Act as no compensation or notice pay was paid to the workman while terminating her services. In the end she has prayed for reinstatement in service with full back wages and to grant time scale of pay as payable to Class IV employees with benefits like provident fund, privilege leave and all other perks and perquisites available to the permanent employees of the Commission.

4. The Oil and Natural Gas Commission has opposed the demand of the workman concerned vide its written statement Ex. 7. It has denied that the workman concerned was recruited in the year 1969 and that she was continuously working since then; that she was in the employment of the Commission only after 1977 as a casual labour and the Government Labour Officer who had come to inspect the record of the Commission was also satisfied that the workman concerned was not employed by the Commission prior to 1977; that the Commission was required to construct various wells and had to carry on drilling operations for the purpose of extracting oil at different places and for that purpose it employs Casual labourers from the local area; that distance between many places is sometimes 50 to 100 miles or even longer and hence it is not the practice of the Commission to employ such casual labourers from one place to the other place of work which may be situated at a far away distance. It would not also be possible for such casual labourers to come for work at such a distant place where the work of Commission may be going on; that when the Commission shifts the place of work, it employs casual labourers from the local area in order to provide employment to the persons staying locally. The Commission has denied that such casual labourers are being transferred frequently from place to place where the operations of the Commission are going on. The Commission has specifically pointed out that even as per the admission of the workman concerned that she was paid Rs. 9.15 per day and that she was not given the benefits of provident fund, leave, privilege leave, casual leave and other perks itself indicates that she was only a casual workman employed from the local surroundings as per the policy of the Commission. The Commission has denied that the services of the workman concerned have been terminated because

she had approached the Deputy Manager of Mehsana Project through union officers. According to the Commission during the year 1977, the workman concerned had put in only 116-1/2 days work, during the year 1978, 135 days work, during 1979—120 days work and during the year 1980—49 days work and in any year after 1977 she has never completed more than 180 days in a year and she being a casual labourer the question of violation of principles of natural justice, Standing orders or breach of Section, 25F, G and H of the Industrial Disputes Act does not arise. The Commission has further pointed out that the seniority list of all the contingent workers engaged in the Western Region was published sometimes in the year 1972 and the name of Smt. Nathiben was not mentioned therein which shows that the statement of the workman concerned that she had been engaged in the year 1969 is not correct; that as per the Standing Orders no notice of termination is required to be given in respect of employees who had been on the Roll of the Commission for less than 180 days.

5. Oral evidence of the workman concerned at Ex. 8, Gulamhusen Gulabbhai at Ex. 11, Sukhdev Pandurang at Ex. 12 has been led on behalf of the workman concerned while Satish Harichand at Ex. 16 and Bhadrashkumar Keshavalal at Ex. 20 have been examined on behalf of the Commission.

6. The Commission has been represented by the learned Advocate Shri B.B. Vakil and the workman concerned has been represented by Shri T.R. Mishra, President of Gujarat Mazdoor Panchayat, Ahmedabad.

7. Shri T. R. Mishra has argued that Smt. Nathiben, the workman concerned, was appointed in the year 1969 and since then she was in continuous service of the Commission upto February, 1980 when her services were terminated orally without any notice and without holding any enquiry and also without assigning any reason whatsoever. That this action of the Commission was in breach of Section 25F of the Industrial Disputes Act. Shri Mishra has urged that even according to the witness of the Commission Shri Satish Harichand, Nathiben the workman concerned has worked as contingent labour and daily rated labour from 1969 to 1975. From 1975 to 1977 she had worked as a labour contractor. Thereafter in 1977 for 20 days she had worked under him as daily rated labourer. Shri Mishra has also taken objection to the Ex. 15/1 showing that she had worked as a labour contractor as the Commission has not taken any such plea thereafter. He has also pointed out that the management of the Commission has not produced any certificate or licence obtained by it under the Contract Abolition Act as required under the law. According to Shri Mishra Smt. Nathiben has continuously worked as a labourer and, therefore, the action of the Commission in terminating her service is in contravention of Section 25F.

8. Shri B. B. Vakil, the learned Advocate for the Commission has vehemently opposed the demand of the workman concerned. He has pointed out that the averment that Smt. Nathiben's services were terminated w.e.f. February 1980 is not correct as she has worked for some days upto July, 1980. He has further argued that the workman concerned has never put in work for 180 days or 240 days in any year so as to entitle her to claim the benefit of temporary or permanent workman under the Standing Orders. He has also argued that from the statements produced by the Commission it will appear that she has never worked for 180 days in any year. That only in the year 1978 she has worked upto 135 days. Hence she has no claim as a temporary or permanent workman as she has worked only as a casual labourer. Shri Vakil has also pointed out that as per the standing orders applicable to the Commission no notice is required to be given nor any enquiry is to be held or any formality to be undergone for terminating the service of casual labourers as they have been employed for casual work only. In view of this position, it was argued that the Commission has not contravened the provisions of Section 25F of the Industrial Disputes Act.

9. From the arguments advanced on behalf of the parties and evidence or record, the material question is whether the workman concerned was a labour contractor or a labourer. If it is held that she was a labourer, whether she was casual,

temporary or permanent labourer. By adducing evidence at Ex. 15/1 the Commission has shown that from 19-6-1976 to 1-3-1977 Smt. Nathiben, the workman concerned, had worked as a labour contractor. Shri Mishra has vehemently opposed this stand taken by the Commission as in its written statement it has not taken this contention. From the evidence on record it appears that from 1969 to 1975 she has worked as a casual labourer and in the years 1976 and 1977 she has worked as a labour contractor. Again from 1977 she has worked as a casual labourer. She had worked for 116-1/2 days in the year 1977, 135 days in 1978, 120 days in 1979 and 49 days in 1980 as shown in the statement produced by the Commission. Shri Mishra appearing for the workman concerned has not challenged the number of days mentioned in the statement. Even if objection raised by Shri Mishra not to allow the Commission to take the plea that the workman concerned had worked as a labour contractor for the period as shown in Ex. 15/1, it will not be much helpful to him because even if it is held that she has worked as a daily rated labourer, she has never completed 180 days in any year in order to entitle her to be even a temporary workman. The evidence of Gulamhusen Gulabbhai Ex. 11, Sukhdev Pandurang Ex. 12 also do not throw much light on this fact except making general statement that they had seen Nathiben working as labourer on site on which they were working but they have not been able to say for how many days she has worked in each year. Shri Mishra also has not been able to show from the record of the case that Smt. Nathiben, the workman concerned had put in service for more than 180 days in any year. In the original muster rolls produced by the Commission there is no mention of the name of Smt. Nathiben the workman concerned. From all this, it is clear that the workman concerned had worked as a casual labourer. Standing Order No. 14 deals with the termination of employment which states for terminating the employment of a workman, notice in writing shall be given in accordance with the provisions of the Industrial Disputes Act, 1947 provided that where a temporary workman is not entitled to one month's notice under the Industrial Disputes Act he shall be given atleast 7 days' notice for termination of employment. Alternatively wages shall be paid in lieu of notice. Under the Industrial Disputes Act, 1947 also only temporary and permanent workman should be given due notice as specified in the Act before they can be retrenched. No such preconditions are attached in case of casual workman. Moreover, the discharge of the workman concerned is a discharge because of the fact that the work for which she was employed was completed and her services were, therefore, not required. Looking to all these factors, I find that the action of the Commission in terminating the services of the workman concerned, Smt. Nathiben Kalidas Solanki, is justified. Therefore, the demand is rejected, and the reference is disposed of accordingly. No order as to costs.

Ahmedabad, 28th February, 1987.

G. S. BAROT, Presiding Officer

[No. L-30011/1/82-D. III (B)]

नई दिल्ली, 26 मार्च 1987

का. प्र. 928.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, भारत पेट्रोलियम कारपोरेशन लिमिटेड, मद्रास के प्रबन्धन से सम्बन्धित नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-3-87 को प्राप्त हुआ था।

New Delhi, the 26th March, 1987

S.O. 928.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bharat Petroleum Corporation Limited, Madras and their workmen, which was received by the Central Government on the 9th March, 1987.

## ANNEXURE 'A'

BEFORE THIRU FYZEE MAHMOOD, B.Sc., B.L.,  
PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
TAMILNADU, MADRAS

(Constituted by the Central Government)

Friday, the 20th day of February, 1987

Industrial Dispute No. 6 of 1987

[In the matter of the dispute for adjudication under  
Section 10(1)(d) of the Industrial Disputes Act,  
1947 between the workman and the Management  
of Bharat Petroleum Corporation Limited, Madras.]

## BETWEEN

Thiru Rana Bahadur,  
C/o Sambesivam,  
No. 4, Kavari Street,  
Madras-600015.

## AND

The General Manager,  
Bharat Petroleum Corporation Limited,  
7, Kodambakkam High Road,  
Post Box No. 1277,  
Madras.

## REFERENCE :

Order No. L-30012/3/86-D.III(B), dated 31-12-1986  
of the Ministry of Labour, Government of India,  
New Delhi.

This dispute coming on this day for final disposal in the  
presence of Thiru V. S. Neelakantan for King and Part-  
ridge, Advocates appearing for the Management, upon perus-  
ing the reference and other connected papers on record  
and the workman being absent, this Tribunal passed the  
following

## AWARD

This dispute between the workman and the Management  
of Bharat Petroleum Corporation Limited, Madras arises  
out of a reference under Section 10(1)(d) of the Industrial  
Disputes Act, 1947 by the Government of India in its Order  
No. L-30012/3/86-D.III(B), dated 31-12-1986 of the  
Ministry of Labour adjudication of the following issue :

"Whether the action of the Management of M/s.  
Bharat Petroleum Corporation Limited, Madras in  
terminating the services of the workman Shri Rana  
Bahadur, Watchman from 3-10-1979 and denying  
employment to him is justified ? If not, to what  
relief the said workman is entitled ?"

(2) Summons were issued to the parties for the hear-  
ing on 20-2-1987.

(3) Today, when the dispute was called, the Management  
was represented by counsel. Petitioner workman was absent  
and not represented. No claim statement was filed.

(4) Hence Industrial Dispute stands dismissed for de-  
fault. Award is passed accordingly. No costs.

Dated, this 20th day of February, 1987.

FYZEE MAHMOOD, Presiding Officer

[No. L-30012/3/86-D.III(B)]

V. K. SHARMA, Desk Officer